SUPREME COURT OF THE UNITED STATES.

No. ~~279~~. 152. 81.

THE UNITED STATES, APPELLANTS,

vs.

JOSEFA DE HARO AND AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

GOVERNMENT PRINTING OFFICE.

SUPREME COURT OF THE UNITED STATES.

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JOSEFA DE HARO *et al.*, claimants, *vs.* THE UNITED STATES, defendants. } For the place named Laguna de la Merced.

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3 *Index to proceedings before board of land commissioners.*

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this sixteenth day of March, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Josefa de Haro et al. for the place named "Laguna de la Merced" was presented, and ordered to filed and docketed with No. 102, and is as follows, to wit:

(*Vide* page 5 of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *May* 20, 1852.

In case No. 102, Josefa de Haro et als. for the place named "Laguna de la Merced," the deposition of John A. Sutter, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, was filed.

(*Vide* page 10 of this transcript.)

4 SAN FRANCISCO, *March* 2*d*, 1853.

In the same case, the depositions of José de la Cruz Sanchez and José Castro, witnesses in behalf of the claimants, taken before Commissioner Harry J. Thornton, the last with document H. J. T. annexed thereto, were filed.

(*Vide* page 9 of this transcript.)

SAN FRANCISCO, *March* 30, 1853.

In the same case, the deposition of William A. Richardson, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, with document marked H. J. T. No. 1, and translation thereof, annexed thereto, was filed.

(*Vide* page 11 of this transcript.)

SAN FRANCISCO, *July* 11, 1853.

Case No. 102, on motion of Clark, Taylor and Beckh, attorneys for claimants, was ordered to be placed on the motion docket.

SAN FRANCISCO, *November* 7, 1853.

In the same case the deposition of José de la Cruz Sanchez, a witness in behalf of the claimants, taken before Commissioner Alpheus Felch, was filed.

(*Vide* page 13 of this transcript.)

5 SAN FRANCISCO, *May* 2*d*, 1854.

Case No. 102, on motion of claimants' counsel, was ordered to be placed at the foot of the 1st-class cases on the trial docket.

SAN FRANCISCO, *July* 1, 1854.

In the same case the depositions of Candelario Valencia, Francisco Sanchez, and Charles Rideout, witnesses in behalf of the United States, taken before Commissioner Peter Lott, were filed.

(*Vide* pages 14, 16, and 24 of this transcript.)

SAN FRANCISCO, *July* 8, 1854.

In the same case the deposition of Paula Sanchez, a witness in behalf of the United States, taken before Commissioner Alpheus Felch, was filed.

(*Vide* page 20 of this transcript.)

SAN FRANCISCO, *July* 14, 1854.

In the same case the depositions of Tiburcio Vasquez, José de la Cruz Sanchez, and Vicente Miramontez, witnesses in behalf of the claimants, taken before Commissioner Peter Lott, were filed.

(*Vide* pages 26, 27, and 33 of this transcript.)

SAN FRANCISCO, *July* 17, 1854.

In the same case the deposition of Eustaquio Valencia, a
6 witness in behalf of the claimants, taken before Commissioner Peter Lott, was filed.

(*Vide* page 36 of this transcript.)

SAN FRANCISCO, *August* 1, 1854.

In the same case the counsel for the claimants read the evidence and opened the argument, followed by the U. S. law agent, and concluded by the claimants' counsel. Case submitted and taken under advisement by the board.

In the same case the deposition of Leander Ransom, a witness in behalf of the United States, taken before the commissioners setting

as a board, with exhibits marked A, B, G, F, being a copy of the original filed notes of survey, and a map, annexed thereto, was filed.

(*Vide* page 40 of this transcript.)

SAN FRANCISCO, *October* 26, 1854.

In the same case the counsel for the claimants filed the following stipulation, to wit:

(*Vide* page 83 of this transcript.)

SAN FRANCISCO, *April* 17, 1855.

In the same case, on motion of the counsel for the claimants, it is ordered that the submission of this case, entered on the 1 August,
7 1854, be set aside, and the case be again submitted on briefs.

SAN FRANCISCO, *June* 12, 1855.

In the same case the U. S. law agent filed the following affidavit, and moved for leave to file the document referred to therein as evidence on the part of the United States, to wit:

(*Vide* page 85 of this transcript.)

SAN FRANCISCO, *June* 26, 1855.

In the same case Commissioner R. Aug. Thompson delivered the decision of the board upon the motion made by the U. S. law agent on the 12th inst., granting the same whereupon it is ordered; that the said espediente, mentioned in said affidavit, be filed and made part of the record in this case.

SAN FRANCISCO, *July* 24, 1855.

In the same case Commissioner R. Aug. Thompson delivered the opinion of the board confirming the claim.

(*Vide* page 97 of this transcript.)

And the following order was made, to wit:

(*Vide* page 102 of this transcript.)

8 *Petition.*

To the honorable the commissioners for settling private land claims in California.

The petition of Joseph de Haro, Natiorda de Haro, Prudencio de Haro, Candelario de Haro, Alonzo de Haro, Carlotte de Haro, Rosalia de Haro, the lawful heirs of Francisco de Haro, respectfully shows:

That heretofore, to wit, on the 15th of August, 1835, one José Antonio Galindo presented his petition to José Castro, first member of the departmental assembly and ex officio governor of California,

soliciting for himself the grant of a piece of land known under the name of "Laguna de la Merced," an accurate description of which will be given hereafter.

That said José Castro referred said petition to the ayuntamiento of San Francisco, and to the mayordomo of the ex-mission of Dolores, in order to obtain their report on the subject.

That they reported in favor of said petition, whereupon said Castro instructed the alcalde of Monterey to inquire into all the necessary circumstances, and especially about the position and character of said Galindo.

That three witnesses having satisfactorily proved said Ga-
9 lindo's good character, and also that the lands petitioned for were not private or corporation property, but were formerly in the possession of the mission Dolores, but that said mission never used nor occupied it, said José Castro, by virtue of his authority aforesaid, declared said Galindo to be the owner of said land, and directed the proper documents to be executed to him.

That this was done accordingly, and the grant issued to said Galindo on the 27th September, 1835.

That said Galindo took due possession of said land on the latter part of said year, and so continued in possession till the 12th of May, 1837, when he transferred and conveyed the whole tract of land so granted to him as aforesaid, to Don Francisco de Haro, and that two days before, to wit, on the 10th day of May, 1837, Ramona Sanchez, the mother of said Galindo, relinquished all the right, title, and interest which she, for herself or for any of her other children, might have in the lands aforesaid, to said Francisco de Haro.

That said Francisco de Haro from that time to his death continued in the possession of said lands, exercising full and undisputed ownership over said land.

10 That said Francisco de Haro died in the year 1849, leaving your petitioners, his children, and lawful heirs.

And your petitioners further state that said Galindo's petition, together with the references, reports, decrees, and duly certified copy of said grant and accompanying map, and the certified copies of the conveyance from Galindo to Francisco de Haro, are on file in the archives of California, now in possession of the surveyor general of the United States of America for the State of California, and that duly certified copies of the same, and are herewith exhibited, and prayed to be made a part of the petition.

That the original grant, and the conveyance from Galindo to said de Haro, together with the said relinquishment, are in the hands of your petitioner, and ready to be offered in evidence whenever required. Translations of the same are herewith exhibited.

And your petitioner further saith, that said land is situated in the county of San Francisco, is known under the name of Laguna de la Merced, and bounded as follows:

1st. Commencing at the Rincon de San Bruno, on the NE.
11 corner of the rancho Buriburi, at low-water mark on the shore of the bay of Francisco; thence westerly in a straight line

along the northern boundary of the rancho Buriburi through the Laguna Alta to the ocean.

2d. Commencing again at the first station; thence in a straight line to the top of the hill of San Bruno; thence along the ridge of the range of the hills; extending thence in a nearly northern direction to the portezuelo or hollow, where the road leading from San José to San Francisco crosses the range of said hills.

3d. Thence north 39° 50′ west in a straight line to the ocean.

4th. Thence along the beach of the ocean to the terminating point of the first above described line, containing a little more than one league from north to south, and a half league from east to west, more or less.

And your petitioners further show that they are not aware of any title paramount to and conflicting with that above set forth.

12 They therefore pray that your honorable body, in consideration of the premises, will confirm their claim and title thereto.

CLARK, TAYLOR AND BECKH,
Attorneys.

Filed in office March 16th, 1852.

GEO. FISHER, *Sec'y.*

Recorded Journal, vol. 1, pages 272, 273, 274, and 275.

GEO. FISHER, *Sec'y.*

Dep. of José Castro.

SAN FRANCISCO, *March 2d*, 1853.

On this day, before Com'r H. J. Thornton, came José Castro, a witness produced in behalf of the claimants, Josefa de Haro *et al.*, petition No. 102, and was duly sworn, his evidence being interpreted by the secretary.

Questions by claimants.

Question 1st. What is your name, age, and place of residence?

Answer. My name is José Castro; my age is forty-four years; my residence is Monterey.

Question 2nd. Look at the document now shown to you,

13 and marked as Exhibit No. 1 to this deposition, and state whether the same is genuine and the signature true?

Answer. The document is a grant issued by myself whilst I was the political chief of California, and is genuine as to signatures, and whatever else it contains.

JOSE CASTRO.

U. S. law agent present.

Sworn to and subscribed before me this 2nd day of March, 1853.

HARRY J. THORNTON,
Com'r, &c.

Filed in office March, 1853.

GEO. FISHER, *Sec'y.*

Dep. of José de la Cruz Sanchez.

SAN FRANCISCO, *March 2d*, 1853.

On this day, before Com'r Harry J. Thornton, came José de la Cruz Sanchez, a witness on behalf of the claimants, Josefa de Haro *et al.*, petition No. 102, and was duly sworn, his evidence being interpreted by the secretary.

Questions by claimant.

Question 1. What is your name, age, and place of residence?

14 Answer. My name is José de la Cruz Sanchez; my age is fifty-six years; my residence, county of San Francisco, on my rancho.

Quest. Are you acquainted with the rancho La Merced; if yea, where is it, and what do you know of its occupation and first settlement?

Answer. I have known the rancho some fifteen years, it adjoins my own. It was first occupied by José Antonio Galindo, and then by Francisco de Haro, who lived there till his death; and since then his family occupy a part of it. Francisco de Haro died about four years ago. Haro built a house on the place immediately on becoming the owner of it, and he and his family after him have been on it ever since, cultivating and graining it.

J. DE LA CRUZ SANCHEZ.

U. S. law agent present.

Sworn to and subscribed before me this 2d of March, 1853.

HARRY J. THORNTON,
Com'r, &c.

Filed in office March 2d, 1853.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B, vol. 2, p. 623.

GEO. FISHER, *Sec'y.*

15 *Dep. of John A. Sutter.*

OFFICE OF THE BOARD OF LAND COMMISSIONERS IN CALIFORNIA,
San Francisco, May 20th, 1852.

On this day, before me, Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in California, came John A. Sutter, a witness produced in behalf of the claimants, the heirs of Francisco de Haro, No. 102 on the docket of said commission, and after being duly sworn, testified as follows:

The law agent of the United States was notified, and attended.

No. 102. *Claim of the heirs of Francisco de Haro.*

1st question by claimants. Look at the original document now shown you, written in Spanish, and purporting to be a grant of the

land now claimed from José Castro to José Antonio Galindo; state if you have compared it with Exhibit No. 1 now annexed to your deposition and placed on file in this case, purporting to be a copy of said grant and a translation thereof. State if said exhibit contains a correct copy of said original document and a correct translation thereof, and whether you know any of the signatures to said original
16 document, and which of them, and whether the same are genuine.

Answer. I have compared the said original document with Exhibit No. 1, as referred to in the interrogatory. Said exhibit presents an exact an litteral copy of said original document and a substantially correct translation thereof. I know the signatures of said José Castro, formerly first vocal of the departmental assembly of California. The signature to said original document is the genuine signature of the said José Castro.

J. A. SUTTER.

The law agent present, and declined to cross-interrogate.

Sworn to and subscribed before me this 20th May, 1852.
HARRY J. THORNTON; *Com'r.*

Filed in office May 20th, 1852.
GEO. FISHER, *Sec'y.*

Recorded in book of evidence, vol. 1, page 531.
GEO. FISHER, *Sec'y.*

17 *Dep. of W. A. Richardson.*

SAN FRANCISCO, *March 30th*, 1853.

On this day, before Com'r Harry J. Thornton, came William A. Richardson, a witness on behalf of the claimants, Josefa de Haro *et al.*, petition No. 152, and was duly sworn, his evidence being given in English.

Questions by claimant.

1st question. What is your name, age, and place of residence?

Answer. My name is William A. Richardson; my age, fifty-eight; and I reside in Marin county, Cal.

Question 2nd. Look at the documents now shown you, marked Exhibit No. 1, and now attached to your deposition, purporting to be a conveyance of the land called Laguna de la Merced, from José Antonio Galindo to Francisco de Haro, attested by Blas, Angelino, and Crespin Silvian, also a consort of Romana Sanchez, the mother of José Antonio Galindo, and attested by Eusebio Galindo. State what you know concerning said documents, and whether the signatures thereto are genuine.

Answer. I have seen the documents referred to. I am well acquainted with the signatures of Blas, Angelino, Crespean

18 Sibrian and Eusebio Galindo; their signatures where they occur on said documents are genuine.

WILL'M A. RICHARDSON.

U. S. law agent present.

Subscribed and sworn to before me this 30th of March, 1853.

HARRY J. THORNTON, *Com'r.*

Filed in office March 30th, 1853.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B, vol. 2, p. 667.

GEO. FISHER, *Sec'y.*

Dep. of José de la Cruz Sanchez.

OFFICE OF THE BOARD OF COMMISSIONERS, &c., &c.

This day, before Com. Alpheus Felch, came José de la Cruz Sanchez, a witness on behalf of claimants, Josefa de Haro *et al.*, No. 102, who, after being duly sworn, deposed as follows:

Questions by Mr. Clark, attorney for claimant.

1st question. Do you know the land called the Rancho de la Merced claimed in this case? If yea, please state what you know in
19 regard to its occupation and improvement by José Antonio Galindo.

Answer. Said Galindo made a small house there in 1835, and put some cattle on the land, about two hundred head; and he lived on the land with his family two or three years, and then he sold the land to Francisco de Haro; Haro built a house on the same rancho, house about two years with his family, and cultivated considerable on the border of the laguna of San Bruno, and he lived in said quantity of ground on the place; he then removed to another house which he built on the rancho at the point of the Laguno de la Merced, and lived on it until a short time before his death, which occurred about five years ago.

Since de Haro's death, I have not been on the rancho. The house above-mentioned are all within a distance of one mile. De Haro kept four hundred head of cattle on the land, and a number of horses on it, while he lived there. Galindo lived in the house first mentioned from the time it was built until he sold it to de Haro.

J. DE LA CRUZ SANCHEZ.

Mr. Greenhow, associate law agent, was present at the taking of this deposition, but propounded no questions; he also acted
20 as interpreter at the request of Mr. Clark.

Subscribed and sworn to before me this seventh day of November, 1853.

ALPHEUS FELCH,
Commissioner.

Filed in office Nov. 7, 1853.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B, vol. 3, p. 374.

GEO. FISHER, *Sec'y.*

Dep. of Chas. Rideout.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *July* 1, 1854.

This day personally came before me, Peter Lott, a commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Charles Rideout, a witness on behalf of the United States in case No. 102 on the docket of said board, wherein Josefa de Haro *et al.* are claimants; and said witness, being duly sworn on oath, deposed as follows, to wit:

The counsel for claimants is present.

Question by U. S. law agent.

1st question. What is your name, age, and residence?

Answer. My name is Charles Rideout; my age, twenty-
21 eight years; my residence, Mission Dolores, San Francisco county, California.

2d question. Did you know two houses built by Augustus Andrews, near the southern end of the Laguna Merced? If yea, when were they built?

Answer. In 1847, in February, about 28th of that month, I went out there and saw Mr. Andrews living in a house there, which was not finished at that time.

3d question. Was there more than one house built at that time?

Answer. I saw none other than the one Andrews lived in to my recollection.

4th question. If there had been another house there, would you not have seen it?

Answer. I think there was another house there, a thatched house and a corral. There was a willow swamp or low piece of land, between this thatched house and the one occupied by Andrews.

5th question. Was that thatched house occupied at that time?

Answer. I do not know.

22 6th question. Where did the de Haro family live at that time—Francisco de Haro and his family?

Answer. At the Mission Dolores.

7th question. Do you fill any office at the mission now, and how long have you filled?

Answer. I am a public officer, and have been off and on since 1851, and have lived at the mission since May, 1847.

8th question. Are you or not acquainted with the county between the Buriburi ranch and Lake Merced, and what means of knowledge you have had?

Answer. Before the mines were found, from May, 1847, to April, 1848, and since I have been an officer, I have often been over that country. Since I have been an officer I have been in the habit of going there every month once or twice. I often go to the neighborhood of the Haro place, in 1847, I was down there every week for 7 or 8 months, and I am well acquainted with the country there.

9th question. From your knowledge of the country, state what the distance is from Lake San Bruno, to the most northerly part of Lake Merced on a direct line?

23 Answer. I should say two miles, perhaps, more or less.

10th question. What is the distance on a direct line between Laguna San Bruno and Laguna Puerca?

Answer. I should say three miles or about that.

11th question. When were you first in this part of the country?

Answer. I was here in San Francisco, and at the mission in 1840; but I was very young, and cannot swear to anything that transpired at that time.

CHARLES RIDEOUT.

Subscribed and sworn to before me on this the 1st day of July, A. D. 1854.

PETER LOTT,
Commissioner for Taking Testimony, &c.

Filed in office July 1, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B, vol. 4, p. 5.

GEO. FISHER, *Sec'y.*

24 *Dep. of Fran'co Sanchez.*

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *June* 30, 1854.

This day personally came before Peter Lott, a commissioner for taking testimony, to be used before the board of U. S. land commissioners in said State, Francisco Sanchez, a witness on behalf of the United States, in case No. 102 on the docket of said board, wherein Josefa de Haro *et al.* are claimants, and said witness being duly sworn, deposed in Spanish, which was interpreted into English by the interpreter to said board, as follows, to wit:

The counsel for claimants is present.

Questions by U. S. law agent.

1st question. What is your name, age, and residence?

Answer. My name is Francisco Sanchez; my age, 48 years; my residence, San Francisco county, California.

2d question. Are you acquainted with the rancho of Laguna de Merced; if yea, how far do you reside from it? How long have you lived there, and in what employed during that time?

25 Answer. I am acquainted with it; it adjoins the ranch on which I live, and is about five miles distant from the house in which I live. I have lived on the same ranch since 1839; in the present dwelling-house since 1846. My employment has been that of a ranchero, (farmer.)

3d question. State if you know the house first built and occupied by José Antonio Galindo; if yea, where and upon what tract of land was it situated?

Answer. I know the house; it was about 200 varas west of the Laguna de Corral de San Bruno, in the county of San Francisco. Clarke now resides on the rancho there; that old house is not there now.

4th question. How far is it in a westerly direction to the western end of Laguna Merced, in a straight line from where that old house stood?

Answer. I do not know. I never saw it measured.

5th question. State whether or not you are well acquainted with the grounds; if yea, is it or not, in your opinion, as much as five leagues between the two points?

26 (This 5th question objected to by claimants' counsel as leading.—P. L.)

Answer. I am well acquainted with the ground, and in my opinion, it is less than 5 leagues distance between those two points.

6th question. Is it more or less than 4 leagues between said points?

Answer. It is less than three leagues at most; in my opinion, it is not more than one league.

7th question. Do you know the portezuelo through which the road from San José to San Francisco passes?

Answer. I know very well.

8th question. How far is it from that point on a straight line to the foot of the hills on the seashore at the nearest point?

Answer. I don't know; I never saw it measured.

9th question. Is it, your opinion, more or less than 5 leagues; if yea, how much more or less?

27 Answer. I do not know. I am no surveyor. I never saw it measured, and can make no calculation about it.

10th question. State upon what tract that house built by Galindo stood.

Answer. Upon the tract given to him by the Mexican government, the house, corral, and cattle all were.

11th question. How far did that house stand from the Buriburi tract?

Answer. The house might be 100 varas from the line. Laguna Corral de San Bruno is on the boundary on the north of the Buriburi rancho, and on the south of the rancho of Laguna de Merced. Clarke now cultivates the same land where Galindo had his house.

Cross-examined by claimants' counsel.

1st question. Where was the house situated in which Don Francisco de Haro the elder reside after he purchased the rancho; and where was situated first the house which was removed by Charles Brown, and where was it removed to?

28 Answer. At the south of the Laguna de Merced. There were two houses, one on the west side of the lake, belonging to Francisco de Haro, and the other on the east, belonging to Don Augustus Andrews, the son-in-law of de Haro. The said two houses were removed by Charles Brown to the place formerly called la Bosa, and which is now called Lake house.

2nd question. Were the two houses you have mentioned as being at the south of the Laguna de Merced, on its east and west sides, at the southern end of said lake?

Answer. Yes; they were on that part of the lake towards San José.

3rd question. Were there, previous to the American occupation of the country, colindantes on all sides of the rancho de la Laguna de Merced, except the side next to sea?

(This 3rd question objected to by U. S. law agent as leading, and not cross-examination.)

Answer. There were.

Re-examined by U. S. law agent.

29 1st question. Which was first built and occupied, the house of de Haro, or that of his son-in-law Andrews?

Answer. I do not know. Andrews built the houses; one for his family, and one for his father-in-law.

2nd question. In what year were those houses built?

Answer. I do not well recollect, but I believe it was in 1846. After the Americans took possession of the country, and Frémont had killed his, de Haro's sons, he removed the houses nearer to the mission.

3rd question. You have stated there were colindantes around the tract; state now who they were.

Answer. The rancho of Buriburi was on the south; the Laguna de San Bruno was on the boundary; and on the same side the Laguna Alta in the hills was also on that boundary; on the north the mission of Dolores adjoined; on the east was the Portezuelo San Bruno; the measurement reached to the road; on the west was the sea.

Cross-examined by claimants' counsel.

30 1st question. Please to name the owners of ranchos coterminous with that of Laguna de Merced, at any time before the American occupation of the country.

Answer. On the south José Sanchez and Francisco Sanchez; on the north the mission of San Francisco; on the east the Portezuelo; and the west the sea.

2nd question. Do you know how long after the grant to Galindo it was that Galindo built his house?

Answer. He built a house and a corral the same year in which the land was granted to him.

3rd question. Had he any cattle or stock there; if yea, what quantity?

Answer. He had on the place about two hundred head of tame cattle, and one time manada of 25 mares, and a stallion and some horses.

Re-examined by U. S. law agent.

1st question. Are you related to Signora de Haro, and the petitioner in this case; if yea, how?

31 Answer. I am a brother to the wife of Francisco de Haro; she is deceased, and was the mother of the claimants.

FRAN'CO SANCHEZ.

Subscribed and sworn to before me on this 30th day of June, A. D. 1854.

PETER LOTT,
Commissioner for Taking Testimony.

Filed in office July 1, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B, vol. 5, p. 2.

GEO. FISHER, *Sec'y.*

Dep. of Paula Sancho.

UNITED STATES LAND COMMISSION,
San Francisco, July 8, 1854.

On this day, before Commissioner Alpheus Felch, came Paula Sanchez, a witness on behalf of the United States, in case No. 102, in which case Josefa de Haro *et al.* are claimants, who, after being duly sworn, deposed as follows, his evidence being interpreted by the interpreter.

Questions by Mr. Crockett, on behalf of the government.

1st question. Please state your name, age, and place of residence.

32 Answer. My name is Paula Sanchez; my age is upwards of forty, and I reside at the mission Dolores, in the county of San Francisco.

2nd question. Was you acquainted with Francisco de Haro the elder; if so, where did he die, and at what time?

Answer. I was acquainted with him. He died at the mission Dolores; I do not recollect exactly the time, but I believe it was some seven or eight years ago.

3rd question. How long had he resided at the mission prior to his death?

Answer. About sixteen or seventeen years, more or less.

4th question. Are you acquainted with the rancho Laguna de la Merceo; if yea, did de Haro ever reside on that rancho; and, if he did, at what time did he first go there to reside?

Answer. I know the rancho so called. Said de Haro lived at the Laguna de San Bruno, distant about one league from the Laguna de Merced, but I do not know whether it is on the same ran-
33 cho or not. He lived there three, four, or five years. I do not recollect when he moved there, but he was living there when I first came there. I was there first about sixteen or seventeen years ago.

5th question. Who built the house in which de Haro lived at Laguna de San Bruno?

Answer. José Antonio Galindo built it.

6th question. Who owned the rancho adjoining it on the south?

Answer. My father, José Antonio Sanchez.

(This question and answer objected to by Judge Campbell, att'y for claimants.)

7th question. When Galindo was about to build the house, do you know whether or not he was cautioned not to build the house there, because the site where he proposed to build it was on his ground; if yea, by whom was the said caution given? State all that occurred.

Answer. When Galindo put the house there, he put it on his own ground, because his lands were adjoining my father's land. He put the house near the line. I never understood or heard that he was told not to build there.

34 8th question. How long did that house remain there?

Answer. Perhaps five or six years; I do not recollect.

9th question. Have you any knowledge of a house or houses built at or near the Laguna de la Merced by the Haro or his son-in-law Augustin Andrews; if yea, when were they built? Was it before and after the Americans took possession of the country?

Answer. I recollect two houses built by said Andrews, one on each side of the Laguna de la Merced; both were built by Andrews, and for de Haro, and the other for himself. The one intended for himself was built first, and we all lived in it until the other was built, which was about three or four months. The first house was built about a month and a half after the Americans took possession of the country. He finished it and went into it about one month after he commenced building it.

10th question. How were you related to de Haro's wife?

35 Answer. She is my sister.

Questions by Judge Campbell, att'y for claimant.

1 question. When you speak of Francisco de Haro as having lived at the mission sixteen or seventeen years, do you mean that he lived there continually during the whole period; or do you mean that he lived there a part of the time, and a part of the time at the rancho?

Answer. I mean that he lived there part of the time in the mission, and part of the time at the rancho. He had houses at both places.

2d question. Do you know whether he had any stock on the rancho during that period?

Answer. He had some cattle and horses on the rancho.

3d question. In what year were the two houses near Laguna de la Merced built?

Answer. I do not know what year, but it was in the year that the Americans entered the country; and I believe it was in the
36 month of June or July; and I think it was about eight years ago. Yes, it was eight years.

4 question. In what month were these houses built?

Answer. In July, more or less, between July and August; it was after the Americans came. We were all frightened and went into the house which Andrews built for himself, and we occupied it before it was finished, and remained there until the other was finished. I went to the mission, and after that we all went into and occupied the house built for de Haro.

5th question. Did you, at any time, see the house before you went to live in it; if yea, how long before? I mean the house first built by Andrews.

Answer. I did see it from the first commencement of building it, which was about a month before we went to live in it. The Americans killed two of de Haro's sons at San Raphael. We were frightened and ran away, and went from the mission Dolores to the rancho of de Haro, into the woods near the Laguna de la Merced.

The house of de Haro at the Laguna San Bruno was destroyed
37 while we were in the woods; this house was built by Andrews.

6th question. When you say that the Laguna de la Merced is about a league from the Laguna San Bruno, do you mean that it is that distance in a straight line, or by the road between the places?

Answer. I mean by the road. I am not certain of the distance; it has not been measured. The witness further says, that she is the wife of Candelario Valencia, and the daughter of José Antonio Sanchez.

PAULA VALENCIA.

Subscribed and sworn to before me on this eighth day of July, A. D. 1854.

ALPHEUS FELCH, *Commiss'r.*

Filed in office July 8, 1854.

GEO. FISHER,
Sec'y.

Recorded in Ev. B, vol. 5, p. 36.

GEO. FISHER,
Sec'y.

Dep. of Cand'o Valencia.

38 UNITED STATES OF AMERICA,
State of California, ss :

SAN FRANCISCO, *July* 1, 1854.

This day personally came before Peter Lott, a commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Candelario Valencia, a witness on behalf of the United States, in case No. 102 on the docket of said board, wherein Josefa de Haro *et al.* are claimants; and said witness, being duly sworn, deposed in Spanish, which was interpreted into English by the interpreter to said board, as follows, to wit :

The counsel for claimants is present.

Questions by the U. S. law agent.

1st question. What is your name, age, and place of residence?

Answer. My name is Candelario Valencia ; my age, 44 years ; my residence, at the mission Dolores, San Francisco county, California.

2d question. Do you know where José Galindo first built his house on or near the dividing line between the rancho of Buriburi and the rancho of Laguna de Merced? If yea, state upon which of the said
39 ranchos said house was built, and all you know upon that subject.

Answer. I know that the house was built near the line between said rancho, but I do not know which one of the ranchos it was on.

3d question. How far is it, on a straight line northerly from where the house was built to the farthest point of Lake Merced, from said point?

Answer. I do not know the distance. I have never measured it, and cannot form an opinion of it.

4th question. How far is it from the Laguna de San Bruno to the Laguna Puerca, on a direct line?

Answer. I cannot say. I do not know.

5th question. Is it more or less than 10 leagues? If yea, how much more or less?

Answer. I do not know.

6th question. Do you know when Augustin Andrews built the house in which he lived, at the southern point of Lake Merced?

40 Answer. About and after the time the Americans took possession of the country.

7th question. Did Andrews, or Francisco de Haro, first go there to live?

Answer. Andrews went there first, and they both lived there at the same time.

8th question. Where did de Haro live before he went there?

Answer. At the mission Dolores.

9th question. How long have he lived at the mission before he moved there to the lake?

Answer. I do not recollect.

10th question. Where did he live before he lived at the mission?

Answer. He lived at said rancho Laguna de Merced before he went to the mission.

11th question. What part of the rancho Laguna de Merced do you mean that he lived on before he lived at the mission?

Answer. I do not recollect.

13th question. Did or did not de Haro ever live at the place first improved by Galindo?

41 Answer. He did. He lived there with his family.

14th question. Did he live at any other place on the rancho before he went to the mission to live? If yea, state where.

Answer. He did not.

CANDELARIO VALENCIA.

Subscribed and sworn to before me on this 1st day of July, 1850.

PETER LOTT, *Commissioner.*

Filed in office July 1st, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 5, p. 1.

GEO. FISHER, *Sec'y.*

Dep. of Tiburcio Vazques.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *July* 14, 1854.

This day personally came before Peter Lott, a commissioner for taking testimony to be used before the board of U. S. land commissioners of said State, Tiburcio Vazquez, a witness on behalf of the claimants Josefa de Haro *et al.*, in case No. 102 on the docket

42 of said board. Said witness, being sworn, deposed in Spanish, which was interpreted by the interpreter to said board, as follows.

The U. S. associate law agent present.

Questions by claimants' counsel.

1st question. What is your name, age and residence?

Answer. My name is Tiburcio Vazquez; my age, 56 years; my residence, in the county of San Francisco, California.

2d question. Do you know the tract of land called "Laguna de la Merced?" If yea, where is it situated; what its boundaries and the natural objects by which it is known; since what time, and how has it been occupied?

Answer. I am acquainted with the said tract. It is situated in the county of San Francisco. It may be a league, more or less, from the mission Dolores. Its boundaries are the Laguna San Bruno; the Portezuelo; the Bolsas; the Laguna Alta, and the sea. The natural objects most remarkable are the Laguna de la Merced, the Laguna

San Bruno, and then there is the Laguna Puerca, which is
43 among the Bolsas, and is a boundary. The first knowledge I had of the place, the now deceased José Antonio Galindo lived there with his family a long while before the Americans came to the country. He had a house and corral on the place, and cattle and horses there. His house was near the Laguna San Bruno—perhaps 50 varas from said laguna. He remained living there till he sold it to Francisco de Haro; then said de Haro lived there. He commenced *build* building another house near the Laguna San Bruno, but did not finish it, on account of the death of his sons. He cultivated a large piece of ground; had barley, wheat, corn, beans, &c., and cattle and horses. He moved from there to the place near the Laguna de la Merced. There he built a house and corral and cultivated land. He and his son-in-law, Andrews, built two houses, one on each side of the Laguna Merced. He was there for a long while, till his sons were killed. His wife was sick, and he came to the mission.

Cross-examined by the U. S. law agent.

1st question. Did he move from Laguna San Bruno to Laguna de la Merced, or from the mission to Laguna de la Merced?

44 Answer. He moved from the mission to San Bruno, and from there to Laguna de la Merced.

2d question. Where did de Haro live when his sons were killed?

Answer. He lived at the mission, because his wife was sick. I had him employed as my secretary at that time. He visited his rancho with a younger son.

3d question. Where did de Haro live in 1843, 1844 and 1845?

Answer. I know nothing about years, and therefore I cannot answer the question.

4th question. How long did said de Haro live at the mission?

Answer. He lived there more than 20 years, going back and forth from there to his rancho. He had his sons living on the ranch at the time.

5th question. Was it before or after the Americans took possession of the country that said de Haro moved to the Laguna de Merced?

45 Answer. It was before the Americans took possession of the country.

6th question. Was it as much as two years before?

Answer. I do not recollect.

7th question. How do you know it was before the Americans took possession of the country?

Answer. I do not know whether it was before or afterwards.

Re-examined by claimants' counsel.

1st question. How long have you lived in this part of California?

Answer. More than 16 years.

TIBURCIO $\overset{\text{his}}{+}$ VAZQUEZ.
mark.

Subscribed and sworn to before me on this 14th day of July, A. D. 1854.

PETER LOTT,
Commissioner, &c.

Filed in office July 14, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 5, p. 153.

GEO. FISHER, *Sec'y.*

46 *Dep. of Vicente Miramontes.*

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *July* 14, 1854.

This day personally appeared before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commission of said State, Vicente Miramontes, a witness on behalf of the claimants Josefa de Haro *et al.*, in case No. 102 on the docket of said board. Said witness, being sworn, deposed in Spanish, which was interpreted by the interpreter to said board, as follows:

The U. S. associate law agent present.

Questions by claimants' counsel.

1st question. What is your name, age and residence?

Answer. My name is Vicente Miramontes; my age, 44 years; my residence, San Francisco county, California.

2d question. Do you know the tract of land called "Laguna de la Merced?" If yea, where is it situated, its boundaries, and natural objects by which it is known; since what time, and by whom, and how has it been occupied?

Answer. I am acquainted with said tract; it is in San Fran-
47 cisco county, California, about a league from the mission Dolores; the Laguna San Bruno is on one side. The Portezuelo and Laguna Puerca on another, and from that to the sea (Pacific;) and the sea is on the west. The Laguna Alta is also a boundary on the south. The old road from the Presidio to San José run near the boundary, passing along above the Laguna Puerca.

The natural objects about the rancho are sandy creeks and woods between the Laguna Puerca and the sea. There is a large lake; the Laguna de la Merced is in the centre of the ranch, and a grove of timber called "Chamisal," west of the Laguna Merced. The first occupation of the place I know of, José Antonio Galindo lived there with his family about 18 years ago; had a house there about 200 varas from the Laguna San Bruno towards the sea, as near as I can estimate it about one mile from the Laguna de la Merced.

Galindo then had a corral there and some cattle and horses. Galindo thus lived there about two years after I knew of his being there. Galindo occupied the place as his own, and then sold
48 it to Francisco de Haro. Immediately after said de Haro

bought the place, he lived on it with his family; he built another house at the same place where Galindo had lived, and had cattle on the land and two manadas of horses on it, and cultivated a portion of the land; he also had tame horses there. He thus occupied the place till about 1847, when they moved the house from the Laguna San Bruno to the Laguna de Merced; he built his house on the west side of the south end of said lake towards the sea; and Andrews, his son-in-law, built a house on the east side of said south end of said Laguna de la Merced. Said de Haro occupied said place as his own; I mean, by saying said de Haro occupied the place, that he occupied with his stock the whole of the place within the boundaries I have mentioned. The cultivation I speak of was both at the Laguna San Bruno and at Laguna de la Merced; and Andrews also cultivated where he lived. When the Americans took possession of the country, Francisco de Haro was in the possession of the whole tract I have described.

49 3d question. Was there ever, to your knowledge, any question or dispute of the right of the said Galindo and de Haro, respectively, to the property or possession of the said tract of land, either among the citizens or by the public authority?

Answer. No; I never heard any question about their rights as owners and occupants of the place.

Cross-examined by U. S. associate law agent.

1st question. How do you know the boundaries of the land? And if you have seen the grant, do the boundaries thus mentioned conform to those names in the title?

Answer. I know them from what Francisco de Haro told me. I never saw the grant.

2d question. What do you know of the sale from Galindo to de Haro? Did you ever see any deed or paper?

Answer. Galindo told me that de Haro had given him 100 cows for the land, and I helped de Haro drive the cows to Galin-

50 do's. I never saw any deed.

3d question. How far is it from Laguna San Bruno to Laguna de la Merced at the nearest point?

Answer. About one mile.

4th question. Are sure it is not miles?

Answer. I cannot positively say it is not two miles. In my opinion it is about one mile.

5th question. About how many leagues, in your opinion, are embraced within the limits you have described of said ranch?

Answer. I do not know; I never saw it measured. I think it is about one league from Laguna San Bruno to Laguna Puerca.

6th question. How far is the Portezuelo, on a direct line from the sea shore?

Answer. I estimate that it may be about $\frac{1}{3}$ a league.

7th question. Did Francisco de Haro ever live at the mission Dolores? If yea, when, and how long?

51 Answer. He lived there in 1843, 1844, and 1845; he then moved to his ranch—this place in question.

8th question. Did he go to live on said rancho in 1845, or was it in 1846?

Answer. He went in 1845.

9th question. What house did he move into on the rancho in 1845?

Answer. The house which he had at the Laguna de San Bruno.

10th question. How long did he stay there?

Answer. He staid there a short time, then moved back to the mission, and was back and forth between the two; his sons lived permanently at the rancho.

11th question. In what year did he move to the house near the Laguna de la Merced?

Answer. In 1847.

12th question. Where did he live from 1839 to 1842, inclusive?

Answer. He was moving back and forth between the mis-
52 sions and the rancho during those years.

VICENTE MIRAMONTES.

Subscribed and sworn to before me on this 14th day of July, A. D. 1854.

PETER LOTT, *Com'r, &c.*

Filed in office July 14, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 5, p. 158.

GEO. FISHER, *Sec'y.*

Dep. of José de la Cruz Sanchez.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *July* 14, 1854.

This day came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, José de la Cruz Sanchez, a witness on behalf of claimants Josefa de Haro *et al.*, in case No. 102 on the docket of said board. Said witness, being duly sworn, deposed in Spanish, which was interpreted by the interpreter to said board, as follows:

The U. S. associate law agent is present.

53 1st question. What is your name, age and residence?

Answer. My name is José de la Cruz Sanchez; my age, 57 years; my residence, San Francisco county, California.

2nd question. Do you know the tract of the land called "Laguna de Merced?" If yea, where is it situated? What its boundaries and the natural objects by which it is known? Since what time, and by whom, and how has it been occupied?

Answer. I do know the tract mentioned. It is situated about a league or a little more from the mission Dolores, in San Francisco county, California. Its boundaries are Laguna Alta, Laguna San

Bruno, the Portezuelo, the Bolsas, with the Laguna Puerca and the sea. The most distincted objects which mark the place are these lakes named and the Laguna de la Merced.

On the side of the Laguna de la Merced, next to the sea, is a willow and oak grove. The first I knew of the occupation of the place, José Antonio Galindo occupied the place in 1836. He petitioned for the place in the latter part of 1835. He lived there with his
54 family about April or May, 1836. He had a small house and corral near the Laguna San Bruno, about 150 varas from the Laguna. He had horses and cattle there. He lived there two years; then he sold the place to Francisco de Haro for 100 head of cattle. The de Haro occupied the place immediately. He built a house about 150 varas from the Laguna San Bruno, and a corral. He had land enclosed and cultivated, and horses and cattle. He was there from 1839 until 1843. He then built his house at the point of the Laguna de la Merced, and was living with his family at the latter place in 1845. He had two houses there, one on each side of the laguna. I mean to be understood that the said Galindo and de Haro occupied, with their cattle, all of the place which I have described by the boundaries herein mentioned.

3d question. How long have you lived on the rancho of Buriburi, adjoining the tract in question?

Answer. Thirty-one years.

4th question. Were the boundaries you have described of the rancho de la Laguna de la Merced, generally recognized by
55 the neighbors?

Answer. Yes; they were so generally recognized.

5th question. Who was in the possession of the said rancho Laguna da la Merced, on the 7th of July, 1846?

Answer. Francisco de Haro was living there, and occupied it as his own, because he had bought it.

Cross-examined by U. S. law agent.

1st question. How far did Galindo's house stand from the northern line of the Buriburi rancho?

Answer. The corral of the house was on the line.

2d question. Does not the survey of the Buriburi rancho, recently made, show that the house stood upon that ranch, and not upon the one claimed in this case?

Answer. By the late survey said house stood on the rancho of Laguna de la Merced. I showed the surveyor the line myself.

3d question. How do you remember that said de Haro moved to the Laguna Merced in 1843?

56 Answer. I remember it because I was there on the rancho. He was married to my sister, and I always was a visitor at his house.

4th question. In what year did Andrews marry de Haro's daughter?

Answer. I do not recollect it, though I was present at the marriage.

5th question. Where did de Haro live at the time of the marriage of Andrews to his daughter?

Answer. At that time he lived alternately on the rancho and at the mission. He had lived at the Puntas de la Laguna de la Merced before Andrews was married to the daughter.

6th question. Are you distinct and positive in your recollection that de Haro built the houses at Laguna Merced before the year 1845?

Answer. I am certain.

7th question. Where was de Haro living at the time his two sons were killed?

Answer. At the mission Dolores. He had been living there
57 from the year 1836.

8th question. How many leagues square are embraced within the outer boundaries of the rancho Laguna de la Merced?

Answer. In length it is about a league or a little more, and in no place is it a league wide; some places not more than a mile.

9th question. Did de Haro or Andrews build the houses at Laguna de la Merced?

Answer. De Haro was there but Andrews did the work; he was the carpenter.

JE. DE C. SANCHEZ.

Subscribed and sworn to before me on this 14th day of July, A. D. 1854.

PETER LOTT, *Comm'r, &c.*

Filed in office July 14, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 5, p. 155.

GEO. FISHER, *Sec'y.*

58 *Dep. of E. Valencia.*

UNITED STATES OF AMERICA,
State of California:

SAN FRANCISCO, *July* 17, 1854.

This day personally came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commission in said State, Eustaque Valencia, a witness on behalf of Josefa de Haro *et al.*, in case No. 102 on the docket of said board. Said witness, being duly sworn, deposed as follows:

Questions by claimants' counsel.

1st question. What is your name, age, and place of residence?

Answer. My name is Eustaque Valencia; my age, 25 years; my residence is at the mission Dolores, San Francisco county, California, where I have lived 16 years.

2d interrogatory. Are you acquainted with the tract of land called Laguna de la Merced? If yea, state what you know of its boundaries, locality, and natural objects which distinguish it; how long you have

known it, and what you know of its occupation, cultivation, and improvement?

59 Ans. I am acquainted with said tract of land; have known it some fifteen years or more. It is situated in San Francisco county, California. It is 2 or 3 miles from the mission Dolores, on the right-hand side of the road going to San José. Its boundaries are on the side towards San José, the Laguna San Bruno, the Portezuelo, and the road from the old presidio which intersects the San José road at said Portezuelo. The Laguna Puerca is a boundary, and the Pacific ocean, and the Laguna Alta next to the rancho of Francisco Sanchez. The most marked natural objects are the lakes I have named and the Laguna de la Merced, a large lake on said rancho. It is chaparell and thicket on it, and bushes. It was occupied, when I was a small boy, some 19 years ago, by José Antonio Galindo; he then had a small house upon the land, about 100 yards from the Laguna San Bruno, on the high ground; he lived in it with his family. I was so young I do not know as to the cattle or other improvements. I do not know how long he occupied it. I went to the presidio to school, and my recollection of the place is indistinct. After

60 that, some 15 or 16 years ago, Francisco de Haro occupied the place; he lived at the same place with his family where Galindo had lived; he had a corral there, and cultivated a part of the lands which was enclosed, and sowed in wheat and planted with tobacco; he had horses and cattle there—I do not know what amount. He remained there and occupied in this manner till he moved his house to the point of the Laguna de la Merced, which I think was in the latter part of 1845 or early in 1846. He had two houses—one for himself on one side of the laguna, and one for his son-in-law Andrews on the other side; he had two corrals there and some land cultivated, and had his cattle and horses there, and lived there with his family. The whole tract described by the boundaries mentioned was occupied by said de Haro as his own property, and I was too young to know anything about the ownership or extent of occupation by Galindo.

3d question. Who was in possession of said tract on the

61 17th of July, 184, and May 30th, 1848?

Answer. Francisco de Haro, now deceased, was in possession of it July 7th, 1846, and also in May 30th, 1848.

4th question. Has the tract been a well-known place since your early recollection, and its boundaries generally known and recognized to be such as you have described?

Answer. Yes; the place is a well-known place, and these boundaries have been generally known and recognized by the neighbors, and that is the way I knew them. I never saw the land measured.

5th question. Since you first recollect, who has been recognized as the rightful occupant and owner of said tract in question?

Answer. Don Francisco de Haro was always understood to be the owner and so recognized. I never heard of any dispute or question of his right to the place.

Cross-examined by the U. S. associate law agent.

1st question. Are the boundaries you have mentioned such natural objects as distinctly to mark and distinguish the rancho,
62 and on how many sides of the tract do they lie? If not on all sides, how are the other sides marked?

Answer. The objects I have named lie all around the rancho, and are prominent natural objects by which the tract embraced within them can easily be ascertained.

2d question. Where were you on July 7th, 1846?

Answer. I was living at the mission Dolores, but on that particular day I do not know whether I was here in San Francisco or at the mission, or on the Sanchez rancho; I was somewhere about here.

3d question. What is the shape of said tract of land in question?

Answer. It is of irregular lines, forming rather an oblong. It is, say 3 miles long and about 1½ mile wide.

Re-examined by claimants' counsel.

1st question. Was the Laguna de la Merced a lake of fresh water till of late?

63 Answer. It was. I have not lately seen it, but I have been told that recently the sea has broken over and made it salt; the lake is near the sea.

Cross-examined by law agent.

1st question. State whether the other lakes you have mentioned have remained the same, since you first knew them, or whether they are changed in their form or locality.

Answer. The only change I know of in them is that "San Bruno" dried up in the summer season, and that was the reason why de Haro moved up to the other lake, "Merced;" but now it does not dry up, and is a permanent lake in the same place where it always was; the others have always unchanged since I first knew them.

Re-examined by claimants' counsel.

1st question. Describe the position of country in which the Laguna Puerca is situated?

Answer. The Laguna Puerca is in a deep cañada, and there are willows and chamisal in the cañada.

EUSTAQUIO VALENCIO.

64 Subscribed and sworn to before me on this 17th day of July, A. D. 1854.

PETER LOTT,
Commissioner, &c.

Filed in office July 17, 1854.

GEO. FISHER, *Sec'y.*

Recorded in Ev. B., vol. 5, p. 170.

GEO. FISHER, *Sec'y.*

Dep. of Leander Ransom.

UNITED STATES OF AMERICA,
State of California.

SAN FRANCISCO, *August 1st*, 1854.

This day personally appeared before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board, Leander Ransom, a witness on the part of the United States in case No. 102 on the docket of the said board, wherein Josefa de Haro *et al.* are claimants, and said witness being duly sworn, on oath deposeth as follows.

The counsel for the claimants being present.

Questions by the United States law agent.

65 Ques. 1st. State whether or not you were, in the month of June, 1853, connected in any way with the U. S. surveyor general office in California.

Ans. I was the chief clerk in the said office in that month.

Question 2. State whether or not, at that time, you made the survey of the rancho of Laguna de la Merced.

Answer. I made a survey of the said rancho some time in the month of July, at the request of those purporting to be the agents for the claimants.

Question 3. Examine the map and field-notes of survey now here presented to you, marked "A, B, G, F," and filed in this case, and state whether or not the said field-notes and map are true and correct copies of the original field-notes and map of the said survey.

Answer. I think they are.

Question 4. Can you state about how much land is embraced with the exterior boundaries of the survey?

Answer. I think there is about five thousand acres, but I
66 cannot state at this moment the precise quantity; but I am sure there is more than one square league.

Ques. 5. By what process did you locate the tract that is designated on the map as the de Haro tract?

Ans. By reasons explained in the field-notes of surveys.

Question. How far is it from Lake San Bruno to Laguna Puerca?

Answer. About four miles and an eighth to the nearest point between two lakes as laid down on the said ——.

The seventh question and answer stricken; they are void.

The claimants' counsel declined cross-interrogating the witness.

LEANDER RANSOM.

Subscribed and sworn to before the commissioners sitting as a board, this 1st day of August, 1854.

GEO. FISHER, *Sec'y.*

Filed in office Aug. 1, 1854.

GEO. FISHER, *Sec'y.*

(Here follow two maps, marked p. 67.)

67 *B.—Espediente.*

Sobre el parage nombrado Laguna de la Merced, solicitado por José Antonio Galindo.

10.

2 S. D. K.

Sello tercero.—Dos reales.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterrey de la Alta California para los años de mil ochocientos treinta y cinco.

FIGUEROA.
A. RAMIREZ.

S'or Gefe Sup'r Politico:

El Ciudadano José Antonio Galindo ante V. S. como mas aya lugar en derecho espongo lo siguiente que ayandose con una numerosa
68 familia ha su cargo compuesta de su madre tres ermanos barones y tres embras necesita para su mantencion un pedaso de tierra que se aya baldio en las inmediaciones de Sr. Franco. y de Dolores cuyo desde no tiene de latitud una legua y de longitud media mas ó menos de lo que acompaño el diseño correspondiente segun la ley de Ag'to de 1824, por tanto A. V. S. suplico se sirva dar los tramites correspond'tes ha esta mi solicitud de lo que recibire gracia jurando no ser de malicia.

S'n Fran'co, Ag'to 15 de 1835.

JOSE ANTONIO GALINDO.

MONTERREI, *Setiembre 5o de* 1835.

De conformidad con las leyes i reglamen't de la materia informe el ayuntamiento de S. Francisco se el interesado en esta instancia obtiene los requisitos prevenidos pr. ser atendido en su solicitud si el terreno que pretende esta comprendido en los veinte leguas limitrofes ó diez litorales que espresa la ley de 18 de Agosto de 1824. Si pertenece á la propiedad de algun particular mision corporacion ō pueblo, con todo lo demas que se crea conducente á ilustrar la materia evacuado que seo pasara el espediente al Sr. mayordomo de la misma mision para q esponga lo que le ocurra sobre el particular.

69 El Sr. D. José Castro, vocal de la E. deput'n territorial i gefe politico interino del territorio de la Alta California, asi lo mandó decretó y firmó de lo que doy feé

JOSÉ CASTRO.
FRAN'CO DEL CASTILLO NEGRETE, *S'rio.*

4 S. D. K.

(Here follows diseño.)

(Here follows map, page 70.)

5 S. D. K.

71 Consecuente al sup'r decreto de 5o de V'bre del presente año que se halla, al margen de la solicitud que hase; el ciud'o José Antonio Galindo en pretencion del terreno de la Laguna de la Merced, el ayuntamiento de esta demarcacion dize lo siguiente: Que el solicitante posee las circunstancias de ser ciud'o Mejicano por nacimiento que ha servido de soldado a la nacion es hombra de bien y ampara a su madre viuda anceana y con otros hijos contribuyendo con su ayundos á la mantencion de todos y conservacion de los bienes q. poreen: el terreno que pretende no está comprendido en los veinte leguas limitrofes y si en las diez litorales pero ha pertenecido á la Mission de S'n Francisco de lo que hallandose al presente distará una legua poco mas a linea recta: no es de temporal ni regadio y si de abrevadero pr. que unicamente puede servir pa. criar un corto numero de ganado á favor de la misma laguna pues todo el terreno es arenoso y apenas produce pastos simples pa. mantencion de caballados y ganado: y pa. sembrios totalmente esteril o juitorse. Es cuanto puedo decir sobre el particular á que se contrae el citado sup'r decreto esta corporacion.

S'n Francisco, Sept'r 10 de 1835.

72 FRANCISCO DE HARO.
FRAN'CO SANCHEZ, *S'rio.*

6 S. D. K.

Sr. Gefe Politico Interino: En virtud del sup'r decreto de V. S. que antesede que prebiene pase al mayordomo desta, este espepediente para que espose lo que le ocurra; dire que el solicitante tiene los requisitos prevenidos pa. ser atendido; el ciud'o Mejicano por nacim'to y servido en la carrera militar; el terreno que solicita pertenese á esta comunidad es abrevadero, no esta comprendido en las veinte leguas limitrofes; y si en las diez literales dista un poco mas de leguna y no la hocupa la espressado, pero con motivo de no estas aun senalados los ejidos o propios que me parece quedar á esta cuando se exija en pueblo, y'noro si d'hos ejidos comprenderan h'ta el mencionada parago y es el motivo por que no puedo desir con cen certidumbre si el repetido parage se puede o no conceder sin que haga falta á esta comunidad.

Dolores, F'bre 13 de 1835.

GUN'DO FLORES.

7 S. D. K.

Sello tercero.—Dos reales.

Habilitado provicionalmente por la administracion de la admistracion de la aduana maritima de Monterey de lo Alta California,
73 para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMIREZ.

Castro.

Monterey, F'bre 22 de 1835.

Pase al alcalde de esta California ante quien la parte interesada de Dn. José Ant'o Galindo producira una informacion de tres testigos idoneos que seran interrogados sobre los puntos siguientes :

1o. Si el solicitante es ciud'no Mejicano por nacimiento si es casado i tiene leyes si es de buena conducta.

2o. Si el terreno que pretende pertenece á la propiedad de algun particular, mision, corporacion ó pueblo. Si es de regadio temporal ó abrevadero i que estension tendrá.

3o. Si tiene brevies de campo con que poblar lo j posibilidad de adquirir los. Evacuados estas diligencias volvera el espediente pa. su resolucion. El Sr. Dn. José Castro primer vocal de la Exma. diputacion territorial y gefe S. politico interino de la Alta California, asi lo mando, decreto y firmo de que doy fee.

JOSE CASTRO.

FRAN'CO DEL CASTILLO NEGRETE, *S'rio.*

Monterey, Setiembre 22 de 1839.

S S. D. K.

74 Derechos 4 ps. notifique se al interesado presente los testigos que se han de examinar sobre los puntos que comprende el superior decreto que antecede. retirase la informacion que se pide y de vuelvase el espediente al S'r gefe sup'r politico para q. surtoi os efectos que haga lugar.

DAVID E. SPENCE.

De ass'a : José Maria Maldonado.
De ass'a : José Joaq'n Estudillo.

En la f'ha presente el C. José Ant'o Galindo, se le modifico el auto antecedente y entendido dijo : lo oye y que presente p'r testigos á los S. S. Fran'co Sanchez, José Fernandez y Guadelupe Barcenas y no firmo p'r que dijo no saver, lo hise yo y los de ass'a segun d'ro.

Lo testado no vale. Lo entre renglones.

SPENCE.

De ass'a : José Maria Maldonado.
De ass'a : José Joaq'n Estudillo.

Inmediatamente precente el C. Francisco Sanchez.

9 S. D. K.

Sello tercero.—Dos reales.

Administracion de la aduana maritima de Monterey de la Alta California para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMIREZ.

Castro.

75 Le recivio juram'te que hizo en forma de d'ro p'r el cual afrecio decir vertad en lo que supiere y fuere freguntado y

siendo lo por su nombre, estado, edad, patria y religion dijo llamarse como d'ho es; que es casado de veinte y nueve años, natural de S. Francisco en la Alta California y C. A. R.

Preguntado. Por el contenido del ynterrogatorio que se advierte en el super. decreto de 22 del presente dijo.

A lo 1o. Que si es Mejicano p'r nacim'to q. noes casado ni tiene hijos.

A lo 2o. Que el terreno q. pretende save q'e pertenece á lo mision de S. Francisco de Asis, que es de abrevadero y q. su estencion sera de largo una legua y lomas ancho media y responde.

A lo 3o. Que tiene vienes de campo q. lo dicho es la verdad á cargo del juram'to que tiene hecho en el que se afirmo y ratifico leida que le fue esta su declaracion y lo firmo conmigo y los de ass'a.

DAVID SPENCE.
FRAN'CO SANCHEZ.

De ass'a: JOSE M'A MALDONADO.
JOSE JOAQUIN ESTUDILLO.

10 S. D. K.

76 José Fernandez se le recivio juram'to en forma vajo el cual ofrecio decir verdaderlo que supiere y frere preguntado y siendolo por su nombre, estado edad, patria y religion dijo, so llama como quedo dicho; q. es casado de edad de treinta y seis años natural de cada y C. A. R.

Preguntado. Por el mismo orden que la fué el anterior testigo dijo, que el interesado es C. Mejicano p'r nacimiento, que no es casado ni tiene hijos y que es de buena conducta y responde.

A lo 2o. Que el terreno q. pretende antes á la mision de S. Fran'co sera que ignora en la actualidad si es de aquello ó no, que es de abrevadero y que su estension podra tener tres cuartos de largo de lagua y un cuarto de ancho y respode.

A lo 3o. Que tiene brenes de campo con q. poblarlo, y que lo dicho es la verdad á cargo del juramento q. tiene hecho en el que se afirmo y ratifico cida que le fué esta su declaracion y lo firmo conmigo y los de ass'a.

DAVID SPENCE.
JOSÉ FERNANDEZ.

De ass'a: JOSE MARIA MALDONADO.
De ass'a: JOSE JOAQUIN ESTUDILLO.

77 Incontinenti se le recivió juramento al C. Guadalupe Barcenas que hizo en toda forma p'r. el cual ofrecio decir verdad en lo q. supiere y fuere preguntado y siendo lo p'r su nombre, estado edad, patria y relig'n.

11 S. D. K.

Sello tercero.—Dos reales.

Habilitado provicionalmente por la aduana maritima de Monterey de la Alta California para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMIREZ.

CASTRO.

Dijo que se llama como queda d'ho que es casado de veinte y dos años, natural de S'n Fran'co y C. A. R.

Preguntado. Por el mismo interrogatorio en lo que lo fueron los dos anteriores testigos digo:

A lo 1o. Que el solicitande es ciudad'no Mejicano p'r nacimiento que no es casado que tiene biena conducta y responde.

A lo 2o. Que el terreno q. pretende save pertenece á la misma de S. Francisco pero que no lo ocupa. que solo es de que so lo es de abrevadero, y q. su estencion será de una legua que largo y de ancho en partes media legua q. en pastos sincuenta y responde y responde.

A lo 3o. Que si tiene suficientes brenes de campo, que lo que tiene d'ho es la vardad á cargo del juramento que haotorgado
78 en el que se afirmo y ratificó leida que lefué esta su declaracion y no firmó por que dicho no saver lo hise yo con los de ass'a.

DANIEL SPENCE.

De ass'a: JOSE M'A MALDONADO.
De ass'a: JOSE JOAQ'N ESTUDILLO.

En la f'ha concluida la informacion que se pide se dernelve al S. E. sup'r politico este espediente en cumplimiento de lo mandado en el anteced'te anto y pa. asv. lo anoto y rubrico.

12 S. D. K.

MONTEREY, *S'bre* 23 *de* 1835.

Vista la peticion con que do principio este esped'te el informe de la autoridad municipal de esta capital lo esposicion de testigos todo lo demas que se tuvo presente iverconvino de conformidad con lo dispuesto por leyes x. reglamentos de la materia se declara á José Ant'o Galindo, dueño en propiedad del terreno conocido con el nombre de Laguna de la Merced, sujeto á las condiciones que se estipulasen librese el despacho correspondiente tomese razon en el lobro respectivo y dirijase este espedieete pa. la debida aprobacion á la E. diputacion territorial. El S. D'n José Castro, primer vocal de la E. diputacion territorial í gefe S. politico interino de la Alta
79 California, asi lo mando decreto y firmo de q. feé.

JOSÉ CASTRO.

Monterey, S'bre 25, de 1835.

En sesion de este dia se examine pasar ó la comision de terrenos valdios.

CASTRO.

Queda tomada razon à f's 74.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office and under my charge and control a portion of the archives of the former Spanish and Mexican Territory or department of Upper California, do hereby certify that the twelve preceding and hereunto annexed pages of

tracing paper, numbered from one to twelve inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents now on file, and forming part of the said archives in my office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office,) at the
80 city of San Francisco, this tenth day of February, 1852.

SAMUEL D. KING,
Survey'r G'l, Cal'a.

Filed in office March 16th, 1852.

GEO. FISHER, *Sec'y.*

Translation of espediente.

Record of proceedings about the locality called "Laguna de la Merced," solicited by José Antonio Galindo.

10.

MONTERREY, *Sept. 5th*, 1835.

In conformity with the laws and regulations on the matter, let the municipal corporation (ayuntamiento) report whether the party concerned in this suit possesses the requisites necessary to be attended to in his solicitation; whether the parcel of land he petitions for is comprised within the twenty leagues of the frontier, (limitrofes,) or the
81 ten littoral leagues expressed in the law of August the 18th, 1827; whether it is the property of any private individual, mission, corporation, or village; together with whatever else the ayuntamiento may think likely to elucidate the matter; and this being performed, let the record of proceedings be sent to the superintendent (mayordomo) of the same mission, in order that he may declare what may occur to him on the subject.

San Francisco, Aug't 15th, 1835.

(Signed) JOSE ANTONIO GALINDO.

Señor Superior Political Chief:

I, the citizen José Antonio Galindo, declare before Y. H., in the best form, having a numerous family intrusted to my care, consisting of my mother, three brothers, and two sisters, I want for their support a piece of land that lies unoccupied in the vicinity of San Francisco and of Dolores, which parcel of land is about a league in latitude and about half a league in longitude, of which I annex the corresponding sketch according to the law of August 18th, 1824. Therefore I entreat Y. H. be pleased to subject my solicitation to the requisite course of procedure, whereby I shall receive favor.

I swear not to be moved by any malicious impulse, &c.

The hon'ble D'n José Castro, chief member of the excellent territorial department and political chief ad interim of the Territory of Upper California, did thus order, decree, and sign, which I attest.

(Signed) JOSE CASTRO.
(Signed) FRAN'CO DEL CASTILLO NEGRETE,
Secretary.

82 The municipal corporation (ayuntamiento) of this demarcation, in compliance with the superior decree of Sept'r the 5th, of the present year, which is to be found on the margin of the

petition of the citizen José Antonio Galindo asking for the land of the "Laguna de la Merced," proceeds to report as follows: That the petitioner possesses the conditions of being a Mexican citizen by birth, of having served the nation in the capacity of a soldier; that he is an honest man, and that he affords shelter and protection to his mother, an old widow having other children, he contributing with his aid to the support of all them and to the preservation of the property they possess. The parcel of land he asks for is not comprised within the twenty leagues boundering ("limitrofes,") but it is comprised within the ten littoral leagues. It has, moreover, belonged to the mission of San Francisco, from which it lies westerly, and a little more than a league distant in a straight line. The land is not farming or irrigable, but pasturing land. It can only be useful as a place for rearing a limited number of cattle by means of the small lake, ("laguna,") for all the land is sandy, and scarcely produces pastures for keeping horses and cattle, and it is wholly sterile and unfit for the pur-
83 pose of sowing. This is all (the information) that this corporation can say on the particulars to which the aforementioned superior decree makes reference.

(Signed) FRANCISCO DE HARO.
(Signed) FRANCISCO SANCHEZ,
Secretary.

To the honorable Political Chief ad interim:

By virtue of your honorous preceding superior decree, which directs this record of proceeding be transmitted to the superintendent of this mission, in order that he may declare what may occur to him on that subject, I report that the memorialist possesses the requisites necessary to be attended to in his solicitation. He is a Mexican citizen by birth, and has served in the army; the parcel of land he solicits belongs to this community; it is pasturing land; it is not comprised within the twenty boundering leagues, but it is comprised within the ten littoral leagues; it is a little, about a league, distant from the mission, and said mission does not occupy it; but inasmuch as the corporation lands, (propios ó ejidos,) which it appears
84 to me are to be left to said mission when it shall be erected into a pueblo, are not yet assigned, I do not know whether said lands will comprise the aforesaid mentioned location, and, therefore, I cannot decisively declare whether the aforesaid location can or cannot be granted without being missed by this community.

Dolores, September 13th, 1835.

(Signed) GUMERSINDO FLORES.

MONTEREY, *Septemler* 22*d*, 1835.

Let it be transferred to the alcalde of this capital, before whom the party concerned, D'n José Antonio Galindo, is to produce an information by three competent witnesses, who shall be interrogated on the following points:

1st. Whether the memorialist is a Mexican citizen by birth;

whether he is a married man; whether he has children, and whether he is a man of good conduct.

2d. Whether the parcel of land he asks for is the property of any private individual, mission, corporation or pueblo; whether it is irrigable, farming, or pasturing land, and what may be its extent.

3d. Whether he has sufficient personal property to occupy it, or can acquire it.

85 These facts being ascertained, the record of proceedings shall be sent back for its decision.

The honorable D'n José Castro, first member of the excellent territorial deputation, and superior political chief ad interim of Upper California, did thus order, decree and sign, which I attest.

(Signed) JOSE CASTRO.
(Signed) FRAN'CO DEL CASTILLO.
NEGRETE, *Secretary.*

MONTEREY, *September* 22*d*, 1835.

Let the party concerned be notified to produce the witnesses to be examined on the points comprised in the preceding superior decree; let the information required be taken, and the record of proceedings be returned to the honorable the political chief, that it may have the due effect.

(Signed) DAV. E. SPENCE.
Assistant witness:
(Signed) JOSE MARIA MALDONADO.
Assistant witness:
(Signed) JOSE JOAQUIN ESTUDILLO.

On the same day, citizen José Antonio Galindo being present, the purport of the proceedings was communicated to him, as to which he said that he has heard and understood it, and shall be
86 present as witnesses, Francisco Sanchez, José Fernandez, and Guadalupe Barcenas. He did not sign this because, as he said, he did not know how; I sign, and my assistant witnesses did so according to law.

(Signed) SPENCE.
Assistant witness:
(Signed) JOSE MARIA MALDONADO
Assistant witness:
(Signed) JOSE JOAQUIN ESTUDILLO.

Immediately after, citizen Francisco Sanchez being present, I administered to him the legal oath by which he offered to answer the truth, to the extent of his knowledge, to the questions that should be put to him; and being interrogated as to his name, state, age, country and religion, he answered that his name is the same before mentioned; that he is a married man; of the age of twenty-nine; a native of San Francisco, in Upper California, and an Apostolic Roman Catholic.

Being interrogated upon the several points prescribed by the superior decree of the 22d instant, he answered to the

1st. That he is a Mexican by birth; that he is unmarried, and has no children; that he is a man of good conduct. To the

87 2d. That he knows that parcel of land the party asks for belongs to the mission of San Francisco; that it is pasturing land, and that its extent may be about one league in length and half a league in breadth; and to the

3d. That he has farming stock (bienes de campo;) that all he has said is true under the oath he has taken, which he confirmed and ratified after this deposition was read to him; and he signed it with me and my assistant witnesses.

(Signed) DAV. E. SPENCE.
(Signed) FRANCISCO SANCHEZ.

Assistant witness:
(Signed) JOSE MARIA MALDONADO.
Assistant witness:
(Signed) JOSE JOAQUIN ESTUDILLO.

On the same day, D'n José Fernandez being present, I administered to him the legal oath, by which he promised to answer the truth, to the extent of his knowledge, to the questions that might be put to him; and being interrogated as to his name, state, (whether married or not,) age, country, and religion, he answered that his name is the same before mentioned; that he is a married man; of the age of thirty-six; a native of Cadiz, and an Apostolical Roman Catholic.

88 Being interrogated to the same points as the former witness, he answered to the 1st: That the party is a Mexican citizen by birth; that he is not married, nor has he any children; that he is a man of good conduct.

To the 2d. That he knows that the parcel of land the party solicited belonged formerly to the mission of San Francisco, but that he does not know whether at present it belongs to the mission or not; that it is pasturing land, and that its extent may be three-quarters of a league in length and a quarter of a league in breadth.

To the 3d. That he has personal property to stock it, and that what he has declared is true under the oath he has taken, which he confirmed and ratified after this deposition was read to him, and he signed it with me and my assistant witnesses.

(Signed) DAVID E. SPENCE.
(Signed) JOSE FERNANDEZ.

Assistant witness:
(Signed) JOSE MARIA MALDONADO.
Assistant witness:
(Signed) JOSE JOAQUIN ESTUDILLO.

Immediately after I administered the legal oath to the citizen Guadalupe Barcenas, by which he promised to answer truly,

89 to the extent of his knowledge, the questions that might be

put to him; and being interrogated as to his name, state, age, country, and religion, he answered that his name is the same before mentioned: that he is a married man; of the age of twenty-three; a native of San Francisco, and an Apostolic Roman Catholic.

Being interrogated to the same purport as the former witness, he answered to the

1st. That the party who solicit it is a Mexican citizen by birth; that he is not a married man, and that he is of good conduct; and he answers to the

2d. That he knows that the parcel of land the party solicits belongs to the mission of San Francisco, but that it is not occupied by said mission; that it is only pasturing land, and that its extent may be a league in length, and in breadth in some places half a league, and in some places a quarter of a league; and he answers to the

3d. That the party owns personal property enough to stock it with; that which he has declared is true under the oath he has taken, which he confirmed and ratified after this deposition was read to him, and he did not sign because, as he said, he not know
90 how. I signed, and so did my assistant witnesses.

(Signed) DAV. E. SPENCE.

Assistant witness:

(Signed) JOSE MARIA MALDONADO.

Assistant witness:

(Signed) JOSE JOAQUIN ESTUDILLO.

On the same day, the information required being ended, this record of proceedings is sent back to the honorable the political chief, in compliance with what has been prescribed by the preceding decree; and in witness whereof, I note it down (lo anoto) and affix my flourish to it.

Flourish of DAV. E. SPENCE.

After examining the petition at the head of these proceedings, the report of the municipal authority of this capital, the testimony of witnesses, together with whatever else was thought to the purpose, in conformity with the directions of the laws and regulations on the matter, José Antonio Galindo is declared owner in fee of the tract of land known under the name of "Laguna de la Merced," subject to the conditions that should be stipulated. Let the corre-
91 sponding patent be issued, and it be duly entered in the corresponding book, and let this record of proceedings be submitted to the excellent the territorial deputation for approval.

The honorable D'n José Castro, first member of the excellent territorial deputation and political chief ad interim of Upper California, did that order, decree, and sign, which I attest.

(Signed) JOSÉ CASTRO.

MONTEREY, *September the 25th*, 1835.

In the session of to-day this record of proceedings was referred to the Committee on Public Lands.

(Signed) CASTRO.

Entered in the folio 74

Filed in office, March 11th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

92 *Espediente annexed to affidavit of J. H. McKune.*

AÑO, *de* 1839.

Espediente promovido por D'a Hermiliana Sanchez, en pretencion del parage llamado la Laguna de la Merced.

MONT'Y, 12 *de Mzo. de* 1839.

Ynforme el S'r Prefecto del 1r distrito sobre el contenido en esta instancia.

ALVARADO.

PUEBLO DE S'N JUAN DE CASTRO, *Marzo de* 20 *de* 1839.

Ynforme el conveniente el alcalde d. S. Francisco pide á la parte interesada el diseño respectivo y devuelva el esped'te á esta prefectura.

CASTRO.

SEÑOR GOBERNADOR: Emiliana Sanchez de Haro, residente en la jurisdiccion de San Francisco ya nombre de sus mare hijos ante V. E. en debida forma comparace y espone, ser dueña de bastante numero de ganado vacuno, y que siendo corto el terreno de la Laguna de la Merced ó Bolsa de este nombre de que hizo el Señor José Ant'o Galindo ó mi esposo Don Francisco de Haro, como consta de documentos pues todo es reducido á media leguas de ancho y una de largo segun el titulo espedido á favor de Galindo, en tal virtud y en vista de considerar este pequeño terreno, insuficiente para la man-

93 tencion de ambas pertenencias; ocurro a la superioridad de V. E. á fin de que se digne en uso de sus facultades, agraciarme con la ampliacion y concesion del terreno medio entre el serro de S. Bruno, portezuelo de este nombre, linea de la lomas alta que se halla entre la Laguna Honda y Laguna Puerca, pudiendo serbir de lindero al N. el sanjon y cañada O. S. que desemboca en d'ho Laguna Puerca, y al sur el corral estinguida de S. Bruno que lo es de mi Señor Padre D. José Sanchez, y Laguna Alta al Horte y el repetido serro de San Bruno. Por tanto A. V. E. suplico se digne prover segun justicia y de su superior agrado, á mi presente peticion que hago en papel comun por no haber del sellado correspondiente, juro no ser de malicia.

SAN FRANCISCO DE ASIS, 5 *de Febrero de* 1839.

EX'MO S'OR: Por no saber escribir lo hizo á su nombre.

FRANCISCO DE HARO.

(Hre follows diseño.)

94 Ynforme, en cumplimiento á lo mandado en superior de 20 de Marzo del presente año que se halla al margen de esta solicitud

que hace D'n Emiliana Sanchez en 5o. de Febrero, tambien de esta año pidiendo la parte de terreno que se haya á la falda del serro de S. Bruno el O. desde el lindero es de Buriburi, hasta el saujon S. O. que nase del portezuelo que llaman de la Laguna honda al S. de esta; debo decir que el espresado terreno tendra de longitud S. N. una legua poco mas ó menos y de latitud S. O. como mil y guinientas varas en su mayor ancho, linda al N. con el establecimiento de Dolores al Noroeste con el Presidio de S. Francisco el O. con la Laguna de la Merced y Cañada de Tecolote y al sur con el rancho de Buriburi.

Cuyo diseño se acompaña para conocimiento de la superioridad: al presente informe para el uso conveniente establecim'to de Dolores, 20 de Abril de 1839.

FRANCISCO DE HARO.

(Here follows map, marked p. 94.)

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, John C. Hays, surveyor general of the United States for
95 the State of California, and, as such, having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, by virtue of the power vested in me by law, do hereby certify that the five preceding and hereunto annexed pages of tracing paper, numbered from one to five, inclusive, exhibit a true and accurate copy of a document entitled "Año de 1839, espediente promovido por D'n Hermiliana Sanchez en pretencion del parage llamado Laguna de la Merced," now on file and forming part of the said archives in his office.

In witness whereof, I have hereunto signed my name officially, and
[SEAL.] caused my seal of office to be affixed at the city of San Francisco, this eighteen day of May, 1855.

JOHN C. HAYS,
U. S. Surveyor G'l for Calif'a.

Filed in office, June 26, 1855.

GEO. FISHER, *Sec'y.*

Translation of espediente annexed to the affidavit of J. H. McKune.

Espediente made by Hemilia Sanchez, soliciting the place called "Laguna de la Merced."

96 1839.

MONTEREY, *March 12th*, 1839.

The prefect of the first district will inform himself in respect to the contents of this document.

(Signed) ALVARADO.

PUEBLO DE SAN JUAN DE CASTRO,
March 20th, 1839.

The alcalde of San Francisco will give the necessary information. Ask the party interested for the map, and return this prefecture.

(Signed) CASTRO.

SEÑOR GOBERNADOR: Emilia Sanchez de Haro, a resident in the jurisdiction of San Francisco, for herself, and in the name of her nine children, represents and sets forth in due form to your excellency, that she is the owner of sufficient number of stock, (ganado mayor vacuno;) and that the land, known as the Laguna de la Merced or Bolsa of this name, which was sold to my husband, D'n Francisco de Haro, by José Antonio Galindo; that the same is only one-half league in width and one in breadth, as shown in the title papers given in favor of Galindo; for which reason, and because the same is small for both, I apply to your excellency, hoping that will do me the favor to grant and concede to me the land between the
97 hill of "San Bruno," "Portezuelo" of this name, bounded by the hill that lies between the Laguna Honda and Laguna Puerca, and turning, for a northern boundary, a gulch that empties into Laguna Puerca, and the south by the extinguished corral of Bruno, which belongs to my father, D'n José Sanchez, together with the Laguna Alta and the hills of San Bruno. I hope your excellency will grant my petition, which I have made upon common paper for want of stamped. I swear that this is done without malice.

San Francisco, February 5th, 1839.

EX'MO SEÑOR: As she does not know how to write, I have made it her name.

(Signed) FRANCISCO DE HARO.

INFORM: In accordance with the superior decree, dated March 20th of the present year, and which is found on the margin of the petition made by Doña Hermelia Sanchez, dated February 5th of the present year, asking for the land laying on the west slope of the San Bruno hills, running north from the Buriburi by the Portezuelo to
98 Laguna Honda. I ought to say that the said land from north to south is one league, a little more or less, and from east to west fifteen hundred yards in its widest part; bounded on the north, establishment of Dolores; northwest by the presidio of San Francisco; on the west by the Laguna Merced and valley of the Tecolote; south by the Buriburi. Accompanying this I send you a map for your better information.

Establishment of Dolores, April 20th, 1839.

(Signed) FRANCISCO DE HARO.

Filed in office June 26th, 1855.

(Signed) GEO. FISHER, *Sec'y.*

Doc. H. I. T. No. 1, *annexed to the dep. of Wm. N. Richardson, taken before Com'r H. I. Thornton.*

Yo el ciudadano José Antonio Galindo vesino de esta jurisdiccion ante los testigos presentes; que cedo en el ciudadano Francisco de Haro vecino tambien de esta jurisdiccion, todo el d'ro de propiedad

que por titulo espedido á mi fabor pr. el sor. gefe politico del territorio Don José Castro en veinte y siete de Setiembre de mil ochocientos treinta y cinco; me fue concedido del terreno de la laguna
99 de la Merced en estencion de una legua de latitud y media de longitud coneo espresa el articulo 4° condicional del citado titulo y para que el espresado C. Franco. de Haro ocupe y cultive y haga los usos que mas le convengan á d'ho terreno : sin que nadie lo perjudique en adelante; lo hago entrega de en adelante, le hago entrega al titulo d'ho para que en su virtud lo posea quido y pacificam'te conforme à d'ró.

Otro si la presente secion espresada que por este documento, lago en el repetido C. Fran'co Haro es vendido al mismo en sien reses, embras y veinte y cinco pesos en efectos: y para todo que conste por no saber escribir, lo hizo à mi ruego el c'no Blas Angelina firmando con los de mis testigos. En el puerto de San Francisco doce de Mayo de mil ochocientos treinta y siete.

Este documento es hecho en papel comun por no haber de papel sellado correspondiente.

A ruego del otorgante.

BLAS ANGELINA.

Como test'o:
BLAS ANGELINA,
CRISPIN SIBRIAN.

Romana Sanchez madre de Eusevio, José, Antonio, Juan
100 Bautista y José (Saludes.) Por el presente doy mi consentimiento á mi hijo José Antonio para que pueda vender el d'ro de propiedad y titulo de concesion del terreno de la Laguna de la Merced que le frié concedido por el S. Gefe Politico Don José Castro, y en nombre de los tres humanos mas referidos arriba y por si sedo todo el d'ro que en d'ho terreno. pueda tocamos en la persona que lo compre y para que al comprador no se le ponga embarago alguno al ocupar el terreno referido lo otorgue este papel para constancia y resguardo del interesado que firmo con ruego hijo Garcia Galindo.

En el Pueblo de Dolores á 10 de Mayo de 1839.

EUSEBIO GALINDO.

Filed in office March 30th, 1853.

GEO. FISHER, *Sec'y.*

Translation of Doc. H. I. T. No. 1.

I, the citizen José Antonio Galindo, a resident of this jurisdiction, before the witness present, say: That I cede to the citizen Francisco de Haro, also a resident of this jurisdiction, all the right of ownership, which by the title given in my favor by the political
101 chief of the territory, D. José Castro, on the twenty-seventh of September, eighteen hundred and thirty-five, was granted to me of the land of the Laguna de la Merced, in extension of one

league in latitude and one-half longitude, as the article 4th, conditional of the mentioned title, expresses; and so that the mentioned citizen, Fran'co de Haro, may occupy, cultivate, and have the uses which best suit him of said land, and that none may injure him of in the future, I have delivered to him the said title, so that by virtue of which he may possess it quietly and peaceably according to law.

Besides, the present mentioned cession, which by this document I make to the aforesaid citizen Fran'co de Haro, is sold to the same for one thousand head of cows and twenty-five dollars in goods; and so that all may be evident, as I do not know how to write, the citizen Blas Angelina did so at my request, signing it with the rest of the witnesses, in the port of San Francisco, on the twelfth of May, eighteen hundred and thirty-seven.

This document was made in common paper, not having any with the corresponding seal.

102 At the request of the grantee.

(Signed) BLAS ANGELINA.

Ass't witness:

BLAS ANGELINA.

CRISPIN SIBRIAN.

Romana Sanchez, mother of Eusebio, José Antonio, Juan Bautista and José, (Galindos,) by these presents I give my consent to my son, José Antonio, so that he may sell the right of ownership and title of concession of the land of la Laguna de la Merced, which was given to him by the political chief D. José Castro, and in the name of the three other brothers referred to above, and for this I cede all the right which in said land may belong to us, to the person who bought it, and, so that the purchaser may have no obstacle in the occupancy of said land, I execute this document to him in witness whereof, and for the safety of the interested party, which my son Eusebio Galindo signs at my request.

In the pueblo of Dolores, on the 10th of May, 1837.

EUSEBIO GALINDO.

Filed in office March 30, 1853.

(Signed) GEO. FISHER, *Sec'y.*

103 *Doc. H. I. T. No.* 1, *ann'd to depo. of José Castro.*

Sello tercero.—Dos reales.

Havilitado provisionalmente por la administracion de la aduana maritima de Monterey, de la Alta California, para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMIREZ.

CASTRO.

José Castro, primero vocal de la E. diputacion territorial í gefe politico ynterino del Territorio de la Alta California.

Por cuanto José Antonio Galindo ha pretendido para su beneficio personal í el de su familia el terreno conocido con el nombre de la

Laguna de la Merced, cuyos linderos se espresan en el diseño; practicados previamente las diligencias í averiguaciones concernientes segun lo dispuesto por leyes y reglamentos, usando de las facultades que me son conferidas í de conformidad con el decreto de la E. deputacion de veinte í seis de este mes declaro aprovando la consesion del terreno la Laguna de la Merced S. C'no José Antonio Galindo, he venido en conferir le á nombre de la nacion Mejicana el terreno mencionado, declarandole la propiedad de el por las presentes letras sujeto á las condiciones siguientes:

104 1o. Que se someterá á los que establecirse el reglam'to que se ha de formar para la distribucion de terreno baldios y que entre tanto ni el agraciado ni sus herederos podrá dividir ni enagenar el que se les adjudica, imponer causo, vinculo, fianza, ipoteca ni otro gravamen aunque sea por causa piadosa ni pasarlo á manos muertas.

2o. Podra sercarlo sin perjudicar las travesias caminos í servidumbres, lo disfrutara libre y esclusivamente destinandolo al uso í cultivo que mas le acomode, pero dentro de un año fabricará casa y estará habitada.

3o. Solicitara al juez respectivo que le dé posesion juridica en virtud de esta despacho por el cual se demarcaran los linderos limites pondran á mas de las mojoneras algunos arboles frutales ó silvestres de alguna utilidad.

4o. El terreno de que se hace mencion de longitud que equivale á medio sitio de ganado mayor segun esplica el diseño que corre en el espediente.

El juez que diere la posesion lo hará medir conforme á ordenanza quedando el sobrante á favor de la nacion pa. los usos convenientes.

105 5o. Si contraviniere á estas dispociones perdera su derecho al terreno y sera denunciable por otro.

En consecuencia mando que sirviendole de titulo el presente y teniendose por firme y valedero se tome razon de el en el libro que corresponde y se entregue al interesado para su resguardo y demas fines. Dado en Monterey á veinte y siete de Setiembre de mil ochocientos treinta y cinco.

JOSÉ CASTRO.

F'CO DEL CASTILLO NEGRETE, *S'rio.*

Queda tomada razon en el libro que corresponde á fojas sesenta y cuatro i señalado en el no'o de sesenta y dos que obra en la secretario que es á mi cargo.

Monterrey, S'bre 28, de 1835.

CASTILLO, *S'rio.*

Sello tercero.—Dos reales.

Habilitado provisionalmente por la administracion de la aduana maritima del puerto de Monterey para los años de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

ANGEL RAMIREZ.

CASTRO.

Filed in office March 2, 1853.

GEO. FISHER, *Sec'y.*

106 [Here follows map, p. 106.]

Translation of Galindo's Grant.—D.

107 José Castro, first member of the territorial deputation, and chief superior authority, ad interim, of the territory of Upper California.

Whereas José Antonio Galindo has solicited for his personal benefit and that of his family the tract of land known under the name of "Laguna de la Merced," the boundaries of which are represented in the sketch, the necessary investigations having been made according to the directions of the laws and regulations, by virtue of the authority in me vested and in conformity with the decree of the excellent deputation of the twenty-sixth day of this month and year, approving the grant of the parcel of land "Laguna de la Merced" to the citizen José Antonio Galindo, I have thought proper, in the name of the Mexican nation, to grant to him the aforementioned parcel of land, declaring it to be his property by the present letters, subject to the following conditions:

1st. He is to submit to the conditions to be established by the regulations to be formed for the distribution of vacant public lands, and in the meanwhile neither the grantee nor his heirs shall
108 have power to divide or alienate the land adjudged to them, nor burden it with any annuity, (censo,) bond, (fianza,) mortgage, (hipoteca,) entail, (vinculo,) nor any other burden, though it be for a pious cause, (causa piadosa,) nor shall they have power to transfer it in (manos muertas) mortmain.

2d. He is free to enclose it without obstructing the paths, roads, and servitudes; he shall enjoy it freely and exclusively, appropriating it to the use or cultivation that may best suit him, but within a year at the utmost he shall build a house, which is to be inhabited.

3d. He is to solicit of the respective judge to give him juridical possession by virtue of this patent, by which the boundaries will be designated, on the limits of which are to be placed, besides the landmarks, plants of some fruit trees or fruit trees of some utility.

4th. The parcel of land mentioned is a league in latitude and half a league in longitude, and it is equal to half a "sitio" "de ganado mayor," as appears by the sketch accompanying the proceedings.

The judge who may give possession of it will cause it to be
109 measured according to ordinances, and the surplus resulting is to remain at the disposal of the nation for convenient uses.

5th. If he should violate any of these regulations he shall lose his right to the land and become liable to be denounced by any other party.

Consequently I order that the present document, serving him as a title deed, and being held as firm and valid, be duly entered in the corresponding book, and let it be returned to the party concerned, for his security and for other purposes.

Given in Monterey on the 27th September, 1835.

(Signed) JOSE CASTRO.

(Signed) FRANCISCO DEL CASTILLO NEGRETE,
Secretary.

A proper entry of this title was made in the corresponding book, 71st folio, No. 72, kept in the secretary's office under my charge.
Monterey, Sept'r 28th, 1835.
(Signed) CASTILLO, *Secretary.*

Filed in office March 16th, 1852.
GEO. FISHER, *Sec'y.*

110 *Communication from the surveyor general.*

U. S. SURVEYOR GENERAL'S OFFICE,
San Francisco, Cal., June 24th, 1854.

Hon'ble Board of U. S. Land Commissioners:

GENTLEMEN: At the request of the attorneys of the heirs of Francisco de Haro, who claim the rancho "Laguna de la Merced," purporting to have been granted to José Antonio Galindo, a preliminary survey of that tract was made under the instructions of this office.

In compliance with the request of the claimants, I herewith enclose a copy of the field-notes, and a copy of the map thereof, as returned to and approved by this office.

I am, gentlemen, very respectfully, your ob't serv't,
(Signed) JOHN C. HAYS,
U. S. Sur'y'r Gen'l, Cal.

Filed in office June 24th, 1854.
Signed) GEO. FISHER, *Sec'y.*

111 *Admission of law agent.*

Case No. 102.

Laguna de la Merced.

It is hereby admitted that the conveyance from Galindo to Francisco de Haro filed in this cause be taken as proved, and that the claimants are the heirs-at-law of said Francisco de Haro.
(Signed) LOUIS BLANDING,
Ass't Law Agent.

Filed in office October 26th, 1854.
(Signed) GEO. FISHER, *Sec'y.*

Affidavit of U. S. law agent.

No. 102.

Heirs of Francisco de Haro, claimants for the "Laguna de la Merced."

J. H. McKune, U. S. law agent, says on oath that he has recently received the traced copy of an espediente, hereto annexed and marked "Espediente, H," and that at the time said case was submitted to the board he did not know of the existence of such a document.
112 (Signed) J. H. McKUNE.

Subscribed and sworn to before me this day of June, A. D. 1855.

(Signed) R. AUG. THOMPSON,
Commissioner.

Filed in office June 12th, 1855.

(Signed) GEO. FISHER, *Sec'y.*

Field-notes of survey of Rancho de la Merced.

Survey of the "Rancho de la Merced."

Field-notes of the survey of the tract of land claimed by the heirs of Francisco de Haro, under a Mexican grant by Leander Ransom, dep. surveyor, under instructions from the U. S. surveyor gen'l, dated June 10th, 1853.

The instructions says: With regard to the boundaries, reference is made to a plat annexed to the "espediente," a copy of which is herewith enclosed for your guidance, and that the tract is "one league in length by one-half league in width, which is equivalent to half sitio de ganado mayor, or half a league."

113 In the absence of any definite boundaries to be ascertained from the map, to which reference is made in the espediente, I had recourse to the testimony of persons who pretend, at any rate, to be well acquainted with others.

Mr. Brown, who has an interest in the ranch, accompanied me a portion of the first day, and pointed out the boundaries claimed by Joseph de Jesus Noe, which is designated by stakes and stones recently set, and forms a part of the eastern boundaries of the "Haro rancho."

Mr. Brown referred me to José la Cruz Sanchez for a correct description of the other boundaries of the rancho.

Mr. Sanchez accordingly accompanied me for several hours, and pointed out with much precision, and apparent knowledge of the whole matter, the boundaries of the tract as originally understood and recognized.

In accordance with the information derived from Messrs. Brown and Sanchez, together with the map and descriptions accompanying, I have surveyed the exte ior boundaries as thereby indicated, and herewith return the following field-notes as the result:

SATURDAY, *July 9th*, 1853.

114 Commenced at a telegraph post marked H, which stands in the old road westerly from the "abbey," and which is S. 68½ E. from the point of a well on the opposite side of a road, and said to be the cor. of the Noe ranch. Thence—

	Chs.	
S. 14° ½ W.	4.50	(4.50) chs. ascend point of ridge; set a stake and pile of stones.
S. 24° ¾ E.	3.00	Ascend steep point.
	5.00	Top of ridge, set stake and pile of stones.
S. 42° ¼ E.	11.00	Ascend rock point.
	22.00	Top, then along ridge.
	30 00	Higher peak 8 chs. left.
	38.00	Set stake and pile of stones.
S. 39° ¾ E.	2.00	Descend rapidly into ravine.
	19.00	Base, level ravine, course at right angles.
	21.00	Cross small rav. 30 lks. wide, and then ascend steep hill.
S. 39° ¾ E.	41.00	Top of ridge, then along side.
	46.00	Set stake and pile of stones; ascend.
S. 56° ¼ E.	20.00	Top of round knob, descend.
	28.50	On side hill, head of ravine, set stake and pile of stones; descend rapidly down ravine.
S. 51° ½ W.	28.00	Base of hill, branch ravine 3 chs. left.
	36.00	Cross run ¾ ch. wide, from the left.
	50.00	The rav. is ½ ch. bt. all along.
	60.50	Willow marked II 20 lks. left; cross the run at this point, at "Rancho de la Merced."
S. 51° ½ W.	70.00	
	71.00	Cross roads at right angles.
115]	73.00	Run 10 chs. left.
	95.50	Cross lower road, set stake, which stands 25 lks. south of a telegraph post; pond 40 lks. ahead on line.
	99.50	Opposite side of pond, which I passed by an offset of 2 chs. left and then returned to line, at 1 ch. on the offset, running parallel with the line; a barn where the stages change their horses is close left; the lake, a pond, about 6 chs. long, a house at upper end; thence ascend high plain.
N. 51° ½ W.	106.50	Burn station of old house 60 lks. left.
	129.50	Descend to ravine.
	135.50	Base and descend.
	138.50	Top.
	139.50	Descend.
	141.50	Bore.
	143.50	Cross run, 1 ch. wide.
	145.50	Ascend.
	147.50	Top.
	149.50	Forks of valleys 5 chs. prt.
	151.00	Ascent higher point.
	152.60	Top, descend valley and run 3 chs. rt.
	153.50	Bore, ascend.
	155.00	Top, splendid pasturage.
	155.00	Descend gradually; springs.
	161.50 163.00	Cross run, course north; ascend higher ridges.
	169.50	Bend of spring run, 1 ch. left.
	176.50	Ascend more abruptly.

	Chs.	
116]	181.50 }	Cross point of ridge from NW.
	184.50 }	
	187.50	Across valley, passing left ascend small, pond 15 chs. left of 185¼.
	192.50	Top, descend.
	198.50	Bore, ascend higher ridge.
	211.50	Top.
N. 51° ½ W.	216.50	Descend rapidly.
	221.00	Bank of lake; being unable to chain across this lake I run a bore of 2 chs. at right angles with the line and found the angle to a stake in line on the opposite side 19° 25, and the distance across 5. 67 chs. Lake about 10 or 12 chs. long.
	226.67	Stake on opposite side of the lake.
	230.67	Top of hill.
	232.67	Set stake marked H, and quit un'l for night.
		Sunday, July 10th.
	233.00	Descend rapidly.
	256.00	Base of narrow valley, cross road.
	258.00 }	Point of ridge separating valley, clopse left, cross run and deep ravine.
	259.50 }	
	261.50	Cross road on steep side hill, ascend rapidly.
	265.00	Top of ridge.
	266.00	Descend gradually.
	271.50	Cross road again from rt.
	283.87	Set stake on high bank, then descend rapidly to the ocean, (Pacific.)
	287.87	High-water mark of Pacific ocean.
117]		From this point finding it impossible to chain past a projecting point, of rock extending into the water, I send a flag ahead to be placed on the point.
N. 10° ¾ W.		To flag in line, then run a bore at right angle on the beach, the longest I could obtain, only 2.20 chs., and found the angle at the flag 2° 50′, and the distance 44 chs. 44 lks. by calculation; then went forward beyond the point, ran a base on the beach of the ocean at right angles 1.00 chs., and from each end took bearing and found angle to flag 10° 20′, and the distance from flag to stations by calculation.
N. 7° W.	5.84	Large rock 6 chs. left of stations.
N. 3½ E.	30.00	Along on beach of ocean; mountain rt. 3 to 500 ft. high.
N. 3½ W.	37.00	Mountain rt. high but broken.
" 5½ "	59.00	" " " " "
" 12½ "	36.00	" 200 ft. high.
	50.00	" 150 " "
	146.50	Projecting point of chalky white rock, close rt.
	190.00	End of coarse sandy ridge, rt.
" 3½ "	29.00	Bank rt. low knobs of sand.
N. ½ E.	10.00	To station marked H, old brig aground, 2. chs.

	Chs.	
		left; lake house; finger-board post N. 15° ½ E., 96 lks.
N. 70 E.	37.00	Across low sand knobs.
	38.00	Descend to valley of outlet of lake; not being able to measure across the outlet, erected a flag at point on margin of outlet, and from a point on opposite bank in line run a base at right angles of 2 chs., and formed the angle at the flag 19°, and the distance across, from calculation, 5.57 chs.
118]		
	43.57	Post as above on opposite bank. The distance across outlet about 300 chs.
		Course to lake bridge, S. 29° W.
		" " mouth of outlet, N. 62½° W.
		" " lake house, S. 4¾ W.
		Sand knobs commence.
	82.57	On high bank of lagoon at station marked L.
S. 83° E.	4.00	Along on south bank of lagoon loose sand-knobs, and in road.
	16.00	Station on high bank of lagoon in road.
N. 74½° E.	8.00	Lagoon left, ends house in valley at upper end, 9 chs. left.
	11.75	Liberty pole and corner of barn, ½ ch. rt.
	17.00	Station on right bank of ravine. The banks of this ravine about 50 feet high, and from bank to bank 6 to 10 chs.
S. 75° E.	20.00	Along on top of bank.
N. 83° ½ E.	22.00	Banks lower, ravine narrower.
N. 49° ½ E.	6.50	Cross Green's fence and ditch.
	9.00	" line claimed by "Noe" as the western boundary of his ranch.
119]		
	10.00	Post on slope of ravine.
N. 4° ½ E.	8.00	Ravine only 20 to 30 feet deep.
N. 48° ½ E.	7.00	Ravine only 20 to 30 feet deep.
" 55° "	7.50	To old road, a crossing of ravine, said to be the eastern boundary of the Noe and de Haro ranch by José de Francisco Sanchez; thence along the road *road* on tract as near as could be ascertained.
S. 4° E.	40.00	Green's house bears S. 71° W.
	65.25	Station near road to Green's house; course to Green's house N. 51° ¾ W.
S. 44° E.	20.00	Road to San Francisco branches left.
	25.00	Valley commences.
	30.00	Another road branches north.
S. 27° ½ E.	9.48	Station in old road, which is S. 7° E., 245 chs. from a post of U. S. survey marked T. 2 N., R. 5 & 6 W., S. $\frac{35}{36}$ $\frac{30}{31}$.
S. 26° ¼ E.	5.00	Cross lake house road.
	12.00	Ascend ridge.
	22.00	Station in old road on slope.
S. 12° W.	5.00	On course of ridge, higher on either side.
	22.00	Descending along old road.

	Chs.	
S. 5° ½ E.	26.00	Descent to valley or ravine.
S. 9° ½ W.	17.00	Ascending along old road.
S. 15° ½ W.	5.00	Cross Noe's fence.
	6.00	Cross road from San José to San Francisco.
	8.00	To telegraph post marked H, being the commencing point.
		After the completion of the foregoing survey of the exterior boundaries of the tract claimed, I submitted a map of the survey to the "Rancho de la Merced," heirs of the rancho, and the location of the half league as determined upon by them, being, as I conceived, in accordance with the spirit of the grant. I made the survey to correspond with their wishes, of which the following are the field-notes:
120]		
		Commencing at a point in the north boundary of the former survey of the whole tract, and 23.50 chs. from the station marked L on the bank of the lagoon, and run along said line to said station
N. 70° E.		23.50 chs.
		Thence as before.
S. 83° E.	16 00	
W. 74½ E.	17.00	
S. 75° E.	20.00	
N. 83° ½ E.	22.00	
N. 49° ½ E.	9.00	To the west line Noe's ranch as claimed by him; thence
S. 83° E.	10.00	Along said line to a point 40 chs. west of the range line, separating ranges 5×6 W. of the U. S. survey; thence
S. West.	107.00	At 38 chs. line separating township 2×3 crosses U. S. survey.
West.	104.17	To a point on high bank of the Pacific ocean,
North.	208.33	Crossing the lake at two points, to the place of commencement, and containing by calculation $2,193\frac{78}{100}$ acres, and an excess of 23.65 acres, over a half league; I therefore cut off from the
121]		south end by a parallel line a strip 2.27 chs. wide, equal to 23.65 acres, and making the tract contain $2,170\frac{13}{100}$ acres, or half a league. See tabling.

July 30th, 1853.

(Signed) LEANDER RANSOM,
U. S. Dep. Sur.

Oath of assistants.

We hereby certify, that we assisted Leander Ransom, U. S. deputy surveyor, in running the exterior boundaries of a tract of land lying in the county of San Francisco, claimed by the heirs of Fran'co de Haro, under a Mexican grant; and that the said survey has been executed in all respects, to the best of our knowledge and belief, well

and faithfully, and according to the instructions of the U. S. surveyor general.

(Signed) ALBERT BENNER,
Chainman.

(Signed) H. J. BING,
Chainman.

(Signed) JOSEPH DE LA CAMARO,
Flagman and axeman.

Sworn to and subscribed before me on this 30th day of July, 1853.

(Signed) LEANDER RANSOM,
U. S. Dep. Sur'r.

122 I, Leander Ransom, dep. sur., do solemnly swear, that in pursuance of instructions from the U. S. surveyor general of California, dated 10th June, 1853, I have faithfully surveyed the rancho de la Merced, claimed by the heirs of Francisco de Haro, in San Francisco county, and that the foregoing are the true and original field-notes of said survey.

(Signed) LEANDER RANSOM.

Sworn to and subscribed before me at the city of San Francisco, the 1st day of August, 1853.

WM. A. CORNWALL,
Notary Public.

I certify that the foregoing eight pages are truly copied from the original field-notes of the survey of the "rancho de la Merced" now on file in this office.

U. S. Sur. Gen'l office, San Francisco, June 21st, 1854.

(Signed) JOHN C. HAYS,
U. S. Sur. Gen'l Cal.

Filed in office June 24th, 1854.

(Signed) GEO. FISHER, *Sec'y.*

Opinion of the board by Com. Thompson.

123 JOSEFA DE HARO *et al.*
vs.
THE UNITED STATES.

This is a claim by the heirs-at-law of Francisco de Haro for a tract of land called "Laguna de la Merced," situated in the county of San Francisco, and is founded on a grant made to José Antonio Galindo by Governor José Castro, on the 27th of September, 1835, the original of which is introduced and proved in the case.

A traced copy of the espediente from the archives, duly certified by the surveyor general, is also found on file, and presents in detail all the preliminary steps in relation to the grant, with the minuteness and particularity which characterize the valid concessions of land made

by the Mexican authorities in California, under the law of August, 1824, and the regulations of 1828.

It appears from the grant itself that the concession received the approval of the territorial deputation prior to the issuing of the title, thus constituting it a perfect legal title under the Mexican laws of colonization.

The present claimants derive their title by a conveyance
124 from Galindo, the original grantee, their ancestor Francisco de Haro, dated May 12th, 1837, which, together with the heirship of the present claimants, is admitted as proved by stipulation of the U. S. associate law agent.

The validity of the original title is fully established by the testimony.

The petitioners claim a confirmation by certain specific boundaries which are particularly set out in their petition.

The grant is for the tract of land known by the name of the "Laguna de la Merced," the boundaries of which are represented on the sketch. By the 3d article of the grant, the grantee is required to obtain juridical possession from the proper magistrate, by whom the limits were to be marked out. The 4th article describes the land as one league in latitude, and a half a league in longitude, equal to half a sitio de ganado mayor, evidently meaning one league from north to south, and a half league from east to west. The same article directs the judge who shall give the possession to cause it to be measured according to the ordnance, reserving the surplus for the use
125 of the nation.

From these provisions it is clear that the intention of the government was to grant the lesser quantity to be located within the limits of the larger tract, as described on the map, and that such was the understanding of the grantee and his alienee, de Haro, is apparent from a subsequent espodiente from the archives, a traced copy of which was filed by the law agent on behalf of the government.

This espediente is based upon a petition presented by Francisco de Haro himself, in behalf of his wife, to Governor Alvarado, setting out that the land purchased by him of Galindo was only a half a league, and was too small for their stock, and praying for the grant of an additional half league, which, from the description given in the petition, was clearly a portion of the lands embraced by the exterior boundaries of the map in which the grant of the "Laguna de la Merced" to Galindo was made, and was situated between the eastern boundary of the latter tract and the hill and the portezuelo of San Bruno. This shows clearly that de Haro did not consider the
126 tract purchased by him of Galindo as extending to the portezuelo or hill of San Bruno, else why should he solicit for his wife a new grant for land to which he already had a title?

A confirmation, according to the prayer of the petition, would not only embrace a much larger quantity, but, according to the testimony in the case, it would also include lands not contained within the limits of the diseño or map in which the grant was presented.

From the whole testimony in the case we are clearly of opinion,

that the claimants are entitled to the specific quantity of a half a a league of land, extending one league from north to south, and half a league from east to west, to be located within the limits delineated on the map contained in the espediente, and that such location should be made so as to include that portion of the land actually occupied and cultivated by the original grantee and his immediate alienee, Francisco de Haro.

In accordance with which opinion a decree will be entered.

Filed in office July 24, 1855.

GEO. FISHER, *Sec'y.*

127 Recorded in Record of Decisions, vol. , page .
GEO. FISHER, *Sec'y.*

Decree.

No. 102.

JOSEFA DE HARO *et al.*
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the said petitioners is valid, and it is therefore decreed that the same be confirmed.

The land of which confirmation is made is situated in the county of San Francisco, and is known by the name of "Laguna de la Merced," containing one half a square league, being one league from north to south, and a half a league from east to west, to be located according to the calls of the original grant and within the limits delineated on the map contained in the espediente, to both of which reference is hereby made for a more particular description, regard being
128 also had to the actual occupation of the original grantee and the ancestor of the present claimants.

R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

Filed in office July 24th, 1855.

GEO. FISHER, *Sec'y.*

Recorded in Record of Decisions, vol. , page .
GEO. FISHER, *Sec'y.*

And it appearing to the satisfaction of the board that the land hereby adjudicated is situated in the northern district of California, it is hereby ordered that two transcripts of the proceedings and decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States district court for the northern judicial district of California, and the other be transmitted to the Attorney General of the
129 United States.

Secretary's certificate.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the Private Land Claims in the State of California.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing one hundred and two pages, numbered from 1 to 102, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 102 on the docket of said board, wherein Josefa de Haro *et al.* are the claimants against the United States, for the place known by the name of "Laguna de la Merced."

In witness whereof, I hereunto set my hand and affix my
130 private seal, (not having a seal of office,) at San Francisco, California, this twenty-eighth day of December, A. D. 1855,
[SEAL.] and of the independence of the United States of America the eightieth.

GEO. FISHER, *Sec'y.*

Endorsed: Filed January 15, 1856.
JOHN A. MONROE, *Clerk.*

131 *Notice of appeal by claimants.*

U. S. district court for the northern district of California.

HEIRS OF FRANCISCO DE HARO, dec'd,
vs.
THE UNITED STATES.

Claim for the place known by the name of "Laguna de la Merced."

Take notice that the appeal from the decision of the U. S. board of land commissioners for California, rejecting a portion of the claim in this case, (No. 102 on the records of said board,) and a transcript of which proceedings has been filed in this court, on the day of , 1855, will be prosecuted by the claimants.

HORACE HAWES,
Attorney for Claimants.

Endorsed: Filed Jan'y 15, 1856.
JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

132 *Notice of appeal by Att'y Gen'l.*

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
Washington, 11 *February*, 1856.

102.—"Laguna de la Merced."—Josefa de Haro *et al.*, claimants.

You will please take notice that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 17th day of January, 1856, the appeal in the district court of the United States for the northern district of California will be prosecuted by the United States.

C. CUSHING,
Attorney General.

Endorsed: Filed April 4, 1856.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

133 *Decree affirming decision of board of land comm'rs.*

In the United States district court for the northern district of California.

THE UNITED STATES *vs.* JOSEFA DE HARO *et al.* } No. 380.—"Laguna de la Merced."

On appeal from the final decision of the board of commissioners to ascertain and settle private land claims in the State of California. Decree.

Stated term, January 13th, 1858.

This cause came on to be heard at a stated term of the court, on appeal from the final decision of the board of commissioners to ascertain and settle the private land claims in the State of California, under the act of Congress approved on the 3d of March, A. D. 1851, upon the transcript of the proceedings and decision of the said board of commissioners, the papers and evidence on which the said decision was founded; and it appearing to the court that the said transcript has been duly filed according to law, and that the land claimed is within said northern district, it is by the court hereby ordered, adjudged and decreed that the said decision

134 be, and the same is hereby, in all things affirmed; and it is further ordered, adjudged and decreed that the claim of the appellee is a good and valid claim, and that the said claim be, and the same is hereby, confirmed. The land of which confirmation is hereby made is known and called "Laguna de la Merced," and is situated in the county of San Francisco, and is of the extent of one-half a square league, being one league from north to south, and a half league from east to west, to be located according to and within

the calls of the original grant, and within the limits delineated on the map contained in the espediente, to both of which reference is hereby made for a more particular description, regard being also had to the actual occupation of the original grantee, and the ancestor of the present claimants.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Endorsed: Filed January 13, 1858.

JOHN A. MONROE, *Clerk.*
By W. H. CHEVERS, *Deputy.*

135 *Notice from the Att'y General and stipulation.*

CALIFORNIA LAND CLAIMS.

ATTORNEY GENERAL'S OFFICE, 28 *October*, 1846.

SIR: In the case of the claim of Josefa de Haro *et al.*, confirmed to the claimant by the commissioner in case No. one hundred and two, (102,) appeal will not be prosecuted by the United States.

I am, respectfully,

C. CUSHING.

WM. BLANDING, Esq.,
U. S. Attorney, San Francisco.

U. S. district court.

THE UNITED STATES
v.
JOSEFA DE HARO *et al.*
} No. 380.—L. C. 102.—"Laguna de la Merced."

In pursuance of a notice from the Attorney General of the United States, hereunto annexed, it is hereby stipulated and agreed that no further appeal be taken in this case and that the claimants have leave to proceed under the decree of this court heretofore
136 rendered in their favor, as under final decree.

San Francisco, March 18, 1858.

P. DELLA TORRE, *U. S. Att'y.*
HORACE HAWS, *Attorney for Claimants.*

Endorsed: Filed March 19, 1858.

W. H. CHEVERS, *Clerk.*

Order vacating appeal.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room, in the city of San Francisco, on Friday, the 19th day of March, in the year of our Lord one thousand eight hundred and fifty-eight.

Present: The honorable Ogden Hoffman, district judge.

THE UNITED STATES
v.
JOSEFA DE HARO *et al.* } No. 380.—L. C. 102.—"Laguna de la Merced.

The Attorney General of the United States having given notice that no further appeal in this case will be prosecuted by the United
137 States, and a stipulation to that effect having been entered into by the U. S. att'y,

On motion of P. Della Torre, esq., U. S. attorney, it is ordered, adjudged, and decreed that claimants have leave to proceed under the decree of this court heretofore rendered in their favor, as under final decree.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Endorsed: Filed March 19, 1858.

W. H. CHEVERS, *Clerk.*

Order directing return of survey, and allowing U. S. fifteen days to file exceptions.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Friday, the 14th day of October, in the year of our Lord one thousand eight hundred and fifty-nine.

Present: The honorable Ogden Hoffman, district judge.

THE UNITED STATES
v.
JOSEFA DE HARO *et al.* } No. 380.—L.C. 102.—"Laguna de la Merced."

It being suggested to the court that the survey of the lands
138 claimed in this case, made and approved by the U. S. surveyor general for Cal'a, is erroneous, on application of T. R. Wise, esq., acting U. S. attorney, it is ordered that the said surveyor general return to this court a certified copy of the plat of said approved survey, and that the acting U. S. attorney be allowed fifteen days from and after the return thereof, to file his exceptions thereto; and it is further ordered that a certified copy of this order be served upon the said surveyor general for his information.

Endorsed: U. S. Marshal's Office, San Francisco, Oct'r 14th, 1859. I hereby certify that I have this day served the within order on J. W. Mandeville, U. S. surveyor gen'l, personally, by delivering to him a certified copy of this original.

P. L. SOLOMON, *U. S. Marshal.*

Filed October 14, 1859.

W. H. CHEVERS, *Clerk.*

(Here follows map, p. 138.)

139 *Exceptions to survey by United States.*

U. S. district court.

THE UNITED STATES
v.
JOSEFA DE HARO *et al.* } No. 380.—L. C. 102.—"Laguna de la Merced."

And now come the United States, by their acting attorney, Tully R. Wise, and except to the survey of the land claimed in this case, made under final decree by the U. S. surveyor general for Cal'a a certified copy plat whereof was filed in this court on the 22d day of November, 1859.

And the United States aver—

1st. That the said survey does not appear, by the certificate upon the copy plat filed herein by the said surveyor general, to have received the official sanction of the said surveyor general.

2d. That the said survey is erroneous, because the said final decree directs the location to be made one league from north to south, and half a league from east to west, while the said survey locates the land from a northwesterly to a southeasterly direction.

3d. That the said survey is erroneous, because the said final decree confirms one-half square league to be located according to and
140 within the calls of the original grant and diseño, which said calls embrace a much larger extent of land than one-half of a square league, and embrace land enough to satisfy the call for quantity without including certain pre-emption claims held under the U. S., whereas the said survey includes within its lines those certain pre-emption claims.

Wherefore the United States pray that the said survey be set aside as not purporting to be the official survey of the said surveyor general, and as erroneous, and that the said surveyor general be directed to cause a re-survey of the said land to be officially made, in conformity with the true intent and meaning of said final decree.

San Francisco, Dec. 6, 1859.

TULLY R. WISE,
Acting U. S. Att'y.

Endorsed: Served copy within on Horace Hawes, by leaving it at his office, in his absence, this 7th Dec., 1859.

JNO. B. WILLIAMS.

Filed Dec. 7, 1859.

W. H. CHEVERS, *Clerk.*

141 *Monition.*

UNITED STATES OF AMERICA,
Northern District of California, ss:

The President of the United States of America to the marshal of
[SEAL.] the United States for the northern district of California, greeting:

Whereas objection has been made to the official survey and location of the land finally confirmed, in case No. 380, to Josefa de Haro *et al.*, known as "Laguna de la Merced," and situated in the county of San Mateo, in said district:

Now, therefore, you are hereby commanded, in the name of the President of the United States of America, to give due notice to all parties having, or claiming to have, an interest in such survey and location that they be and appear before the district court of the United States for said district, sitting in land cases, on or before Wednesday, the 3d day of October, A. D. 1860, at 11 o'clock a. m., if that day shall be a day of jurisdiction, and if not, on or before the next Wednesday thereafter, then and there to intervene for the protection of such interest, or their defaults will be taken. And what you shall have done under this writ do you then and there make return thereon.

142 Witness the Hon. Ogden Hoffman, judge of said court, at San Francisco, in said district, this 27th day of August, A. D. 1860.

W. H. CHEVERS, *Clerk.*

Endorsed: The within monition was received by me on Monday, the 27th day of August, 1860, and, in obedience thereto, I have given due notice, as therein commanded, by causing the publication of said notice for four consecutive Wednesdays in the S. Francisco Herald, commencing on the 29th day of August, 1860, and for four consecutive Saturdays in the San Mateo Gazette, a paper published nearest the land, commencing on the 1 day of September, 1860.

Dated San Francisco, Aug. 27th, 1860.

P. L. SOLOMON, *U. S. Marshal.*

Returnable Oct. 3, 1860. Issued Aug. 27, 1860. Filed October 3d, 1860.

W. H. CHEVERS, *Clerk.*

143 *Order on return of monition.*

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Wednesday, in the year of our Lord one thousand eight hundred and sixty.

Present: The honorable Ogden Hoffman, district judge.

THE UNITED STATES *vs.* JOSEFA DE HARO *et al.* } In land cases, district court, No. 380.—Land com. No. 102.

And now, at this day, the United States marshal having made return upon the monition heretofore issued in this cause that he had given due notice as therein commanded, proclamation was made that all parties having, or claiming to have, an interest in the survey and location of the land finally confirmed in the above-entitled cause, ap-

pear and intervene for the protection of such interest; the U. S. attorney, Tully R. Wise, and Nathan Porter appeared for the United States, and Solomon A. Sharp for the claimants and David Mahoney; and on motion, it is ordered that the said Mahoney have five days for make a showing of his right to intervene herein, and no others
144 appearing, whereupon it is ordered that the default of all parties not appearing as aforesaid be, and the same is hereby, entered.

Endorsed: Filed October 3d, 1860.

W. H. CHEVERS, *Clerk.*

Petition of intervention by David Mahoney.

District court of the United States for the northern district of California.

THE UNITED STATES *vs.* THE HEIRS OF FRANCISCO DE HARO. } Case No. 380.—Rancho Laguna de la Merced.

To the honorable Ogden Hoffman, judge of the district court of the United States for the northern district of California.

The petition of David Mahoney respectfully shows, that he is the owner in fee of the rancho known by the name of "Laguna de la Merced;" that the said rancho was originally granted to José Antonio Galindo, and conveyed by said Galindo to Francisco de Haro; that the said de Haro deceased in the year 1848; that the heirs of the said de Haro have conveyed to your petitioner the said
145 rancho.

And your petitioner further shows, that the said rancho has been surveyed by the United States surveyor general for California, which said survey has been approved by said surveyor general; that by virtue of an order of this honorable court said survey has been returned into court, and is now pending for examination and adjudication.

Wherefore, your petitioner prays that he may be permitted to intervene in the matter of the examination and adjudication of the said rancho Laguna de la Merced for the protection of his rights in the premises.

McDOUGALL & SHARP,
Att'ys for Petitioner.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

David Mahoney, being sworn, says that he is the person named in the foregoing petition; that he has read said petition, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated on information and belief, and that as to those matters he believes it to be true.

DAVID MAHONEY.

146 Sworn to and subscribed before me this third October, 1860.
W. H. CHEVERS, *U. S. Com.*

Endorsed: Filed Oct. 3, 1860.
W. H. CHEVERS, *Clerk.*

Petition and objections to survey by U. S.

In the circuit court of the United States, northern district of California.

THE UNITED STATES
vs.
JOSEFA DE HARO *et al.* } No. 380.

The petition of Calhoun Benham, district attorney of the United States for the said district, representing the following parties to the court, shows:

First. Thos. S. S. White, J. Smith, James Wood, R. S. Thornton, Robert Patten, William Burby, A. J. Van Winkle, F. E. Pierce, H. Doucks, H. White, A. S. Easton, Henry Simmons, W. T. Prince, and Julius Levy, are parties situated within the survey which is the subject of controversy in this cause, and claim interest in the land embraced by it, under a right of pre-emption, settlement, or
147 purchase derived from the United States; and the said district attorney prays leave, in the name of the United States, to represent the interests of said parties.

Second. And the said attorney of the United States shows to this honorable court that the said survey is erroneous, and for cause shows that the said grant in this cause and the decree of confirmation were for a half league of land, being one league from north to south and a half league from east to west; while the survey in court is for the same quantity of land running from northwest to southeast in its largest direction, and from northeast to southwest in its shortest direction.

Third. That when said claim in this case was presented to the land commissioners, one Ramon de Zaldo was the administrator of Francisco de Haro, deceased, who was the father of Josefa de Haro, and that the said Josefa and the other claimants derive their right to the land in this case through the said Francisco; and the said de Zaldo was also the agent of the said claimants, and the said de
148 Zaldo, as administrator and agent as aforesaid, caused a survey to be made of a half league of land, being a league from north to south and a half league from east to west, and that the said claimants adopted and approved of the survey so made, and filed the field-notes and plat in this case to designate the lands, as those selected by them, and for which they asked confirmation; and the said district attorney asks leave to refer to and use the same whenever and as often as may be necessary, and says that the said survey is entirely different from that used in court.

Fourth. That the said survey so made as last aforesaid was duly

approved of by John C. Hays, who was then the United States surveyor general, and is the first approved survey, and that the survey returned into this court is not now and never was the approved survey, because there was another survey previous thereto.

Fifth. That after the said survey was made, and the lands embraced by it were selected as those mentioned in the grant, and after the same was approved of by the said Hays, surveyor general as
149 aforesaid, the lands adjoining the same, and now embraced by the survey filed in this case, and which is the one in controversy, were sectionized, and the said lands were, in fact, sold by the United States to some of the parties named in the first article of this petition and in conformity to the laws of the United States, and the said parties have paid to the proper officer the price fixed by law for the same, and are now waiting for their patents; and the other parties have pre-empted their lands, and are now ready to pay for the same whenever it shall please the United States to receive their money.

Sixth. That the said claimants, or some of them, have made divers conveyances and divers mortgages, and have exercised various acts of ownership over the lands embraced by said survey approved of by said Hays and elected, considered the same their lands until a subsequent period, when the lands now owned and occupied by the parties named in the first article of this petition were improved and put under a high state of cultivation, and after they could be greatly benefited by a change of location; and the said claimants, or some of them, have at various times pointed out the lands embraced by the
150 survey returned into court, and now sought to be confirmed as public lands belonging to the government of the United States; and the said claimants, or some of them, have aided the persons named in the first article of this petition, or their predecessors in surveying the said lands, in order to pre-empt the same; and the said persons mentioned in the said first article, and all others, have at all times respected the survey first made, and approved of by J. C. Hays, surveyor general, as aforesaid.

Seventh. That in the year A. D. 1853 a notice was published by the duly and legally authorized officer of the United States, calling upon persons who were upon public lands, and entitled to pre-emption, to come forward and enter their lands, and that in obedience thereto some of the persons mentioned in the first article of this petition entered their lands, and afterwards paid for the same; and the others mentioned in said article have from time to time since duly entered their lands, and have in all respects complied with the laws and acts of Congress of the United States of America, and the rules,
151 regulations, and requirements of the departments of the United States and the officers thereof.

Wherefore the United States pray that the said survey returned into this court may be rejected and disallowed, and that the surveyor general may be ordered to make a survey in conformity with the survey heretofore approved of by J. C. Hays, surveyor general, and that the said survey be declared to be the true survey in this case;

and the said United States pray for such other and further relief as the nature of the case may require.

San Francisco, 3d October, A. D. 1860.

CALHOUN BENHAM, *U. S. Att'y.*

Endorsed: Filed Oct. 3, 1860.

W. H. CHEVERS, *Clerk.*

Dep. of Jno. S. Colegrove, for U. S.

In the United States district court for the northern district of California.

THE UNITED STATES *vs.* JOSEFA DE HARO *et al.* } In land cases, dist. court, No. 380.—Land com. No. 102.

152 Be it remembered, that on this 23d day Nov'r, A. D. 1860, at San Francisco, in the district aforesaid, before me, John B. Williams, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared John S. Colegrove, a witness produced in behalf of the United States in the above-entitled cause, now pending in said court under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows.

Present: C. Benham, esq., U. S. attorney, and T. R. Wise and N. Porter, esq., for U. S.; McDougall and Sharp, for claimants and D. Mahoney.

Deposition taken by consent of parties.

JNO. B. WILLIAMS, *U. S. Com'r.*

Question 1. What is your name, age, and place of residence?

Answer. My name is John S. Colegrove; I reside in San
153 Mateo county; I am forty-one years of age.

I know James Denison; have known him since 1852. I took up a claim as public land in San Mateo county in 1853, bordering on "Laguna Alta." Mr. Thornton, Mr. Woods, Mr. James Clark, and Mr. John Locker and Mr. Comonfort took up lands as public lands about the same time. I think Mr. Charles Brown took up some land there, too, about that time. I had a conversation with Mr. James Denison about the lands these parties took up as public lands about that time. I had a talk in particular about the lands that Mr. Thornton, Mr. Woods, and I had taken up, and about the lands in that neighborhood generally. Mr. James Denison told us that it was public land, or government land, I forget exactly which; I could not say which he said. He rode up there on horseback and got into a conversation with us, and he asked us some questions about where our lines were. After we had this talk, and he asked us where our lines

were, he then said that we were on government land, and that we were all right, and that he was going to take up a claim himself; that is about the amount of that conversation. Mr. Robert Patton
154 now lives on the claim that I then took up. It is the same claim that Mr. Denison spoke of. We told Mr. Denison where my lines were. It commenced at Laguna Alta. We pointed out to him from a hill where the lands of our claims were; we did not go around to point out the lines; from that hill we could see where the lands lay. Mr. Woods and Mr. Thornton now occupy the claims that they did then. I don't think anything was said at that time about the de Haro ranch. It was some time during the summer months, I think, but it might have been during the fall of 1853, that the conversation with Mr. Denison occurred. This is the same James Denison that married into the de Haro family. I was anxious not to get on anybody's grant, and I was told that a small corner of my claim was on the Buriburi ranch, and I left it out when I came to enclose my claim.

Cross-examination.

I think I took up my claim along in the summer of 1853; I cannot tell exactly without referring back to some papers. This conversation occurred with Denison within a few days after we had taken up our claims. I am certain that this conversation occurred with
155 Denison after all the parties had taken up claims except Comonfort, and I think he took up his claim about that time. I think I saw him the same day that I saw Denison. I think Charles Brown's claim was down on the county road adjoining Mr. Clark. I had a talk with Mr. Brown, and I understood from him, and from others, that he had a claim there adjoining Mr. Clark's. I did not know, at the time we settled there, of any survey being made of the de Haro ranch.

Examination closed.

JOHN S. COLEGROVE.

Sworn to and subscribed before me this 23d day of November, A. D. 1860.

JNO. B. WILLIAMS, *U. S. Com.*

Endorsed: Filed Nov. 23, 1860.

W. H. CHEVERS, *Clerk.*

Stipulation with reference to dep. of Ramon de Zaldo, on part of U. S.

UNITED STATES OF AMERICA
vs.
JOSEFA DE HARO *et al.*

It is hereby stipulated that the deposition of Ramon de Zaldo, taken before James Rice, notary, counsel for the claimant being

present, shall be read as testimony on the settlement of the
156 boundaries of the land claimed. Said statement to be under oath.

CALHOUN BENHAM,
U. S. Attorney, N. D. C.
McDOUGALL & SHARP,
Attorneys for Claimants and Intervenor.

Dep. of Ramon de Zaldo, on part of U. S.

In the district court of the United States of America, in and for the northern district of California.

UNITED STATES OF AMERICA }
vs.
JOSEFA DE HARO *et als.* }

The deposition of Ramon de Zaldo, a witness on behalf of said United States, taken in the above cause on this eighth day of October, A. D. 1860, pursuant to stipulation hereunto annexed. Calhoun Benham, esq., district attorney of the United States, and Messrs. Wise, and Porter, and Sawyer appearing as counsel for said United States, and Messrs. McDougall and Sharp, and Stebbins and Tompkins appearing as counsel for the respondents. The said witness, being first duly sworn according to law, deposes and says as follows:

I am over fifty years of age. I reside in Santa Clara county, in this State. My name is Ramon de Zaldo.

157 Question 1. Were you ever administrator of the estate of Francisco de Haro?

(Objected to by counsel for the claimant, on the grounds of incompetency, and that the records are the best evidence that affiant is or was administrator.)

Answer. I was, as it can be shown by the records of the court, since 1851; up to two or three years ago I was such administrator, at which last time my administration ceased.

(Here the att'ys for claimant renewed their objections to the foregoing answer.)

The Laguna de Merced, a tract of land lying 3 miles from mission Dolores, and adjoining the Noe rancho, was and is a part of the said estate. During the time I was administrator of this estate there was a preliminary survey of it made in 1853, when having employed, as counsel for the heirs of Francisco de Haro to prosecute their claims before the land commission and other courts, the firm of Messrs. Clarke, Taylor & Beckh; the said firm deemed it
158 expedient to apply to the surveyor general for the performance of the said preliminary survey, which, to my knowledge, was performed by Col. Leander Ransom at the close of the year 1853, or thereabouts, at which time I saw the map of it. The heirs of Francisco de Haro at that time were Josefa de Haro, widow of Guerrero, who afterwards married one James Denison; Natividad, who married one Castro, afterwards a widow and since married to Paul Tissot; Candelaria and Carlota de Haro, (twins,) the first of whom

since married one Prusso, and the other to Fish Denison; Rosalia de Haro married Charles Brown; Prudentio de Haro and Alonzo de Haro; these two last being at that time under age, as well as Candelaria and Carlota being in like manner under age. I was appointed the guardian for the two girls—Candelaria and Carlota. Charles Brown was guardian of the boy Alonzo, and the boy Prudentio soon thereafter becoming of age, no guardian was appointed in his case. Candelaria and Carlota were both single at that time. I had nothing to approve or disapprove with regard to the survey. I considered it an
159 action, exparte, to show to the government the land that they claimed. I was not cognizant of the boundaries, and did not attend to the survey. I understood some of the parties interested were on the spot; and when the plat or map was returned to me by surveyor, Col. Ransom, I showed it to the parties in interest; that is, I showed it to all the parties who were of age, that is, Denison and Brown, prior to my handing it to the above-mentioned counsel, Clarke, Taylor, and Beckh, to be used before the land commission. I understood that the lines of the survey to be pointed out to Col. Ransom by one of the Sanchez and Charles Brown. I understood this from both Charles Brown and Ransom. At that time I heard no remark against the survey by the heirs or guardians of any of them; but at this time there were no guardians appointed. Denison asked me why the lake house had been left out in the survey. I referred him to his brother-in-law, Mr. Brown, and to his uncle who pointed out the lines, and stated to him that I was perfectly unaware of the boundaries. First. Col. Ransom went there and ran some lines, which embodied infinitely a larger tract than the counsel was
160 contending for before the land commission, and making them cognizant of the rights to locate within the boundaries. I told them to locate it as best suited them, in order to assert their rights before the land commission.

Question. Do you recollect, after the larger survey was made, whether Col. Ransom gave you the map of the same, and asked you to learn from the heirs what particular part they claimed? And whether you took the map to the heirs and got them to point out the land which they claimed? And whether you afterwards showed to Col. Ransom the land so pointed out by the heirs, if any?

Answer. I have no distinct recollection of the minuteness of the transaction. I distinctly recollect, though that I suggested, that being so close by, and so small a tract, on a plane where there were no hills, that it would take hardly three or four hours to run it out; that it was decidedly better for the parties to be on the spot and point them out. The heirs were at that time in possession of the tract, and had been ever since the purchase by their father, as
161 Californians were used to do by pasturing their cattle and their horses without living upon it. They were so in possession prior to and after the survey.

Question. After the survey, did the heirs or any of them accept the portion surveyed by Col. Ransom as the half league which they claimed?

Answer. In the absence of anything to contradict it, I had three reasons to construe in my mind that they were satisfied with it: Imprimis, their own pointing out the lines; second, their own preempting alongside tracts of land; and last, though not the least, that I was in possession of a document written and sworn to by their father, describing the identical land to be his own. That is all. That document is in my possession, and I now produce the same. [Here paper marked Exhibit A produced.]

Question. Independently of being administrator, were you acting as the agent of any of the heirs? and if so, for whom, and you have you any documents showing your agency?

162 Answer. Well, I have a half formal one and half informal one, such as we had in 1849 and 1850.

(Here the witness produced paper marked Exhibit "B," hereto annexed, the same bearing date 30 July, 1851, signed by Josefa de Haro, widow of Guerrero, at the request by J. Loreto Martinez, Rosalia Brown, by Charles Brown, her husband; Prudencio de Haro, by José Maria, Santa Maria, Candelaria, and Carlota, with their crosses, (×) witnessed by Henry Booth; witnesses, Robert T. Ridley and J. de Jesus Noe.)

I was present when this paper was signed, and I saw all the parties sign it. All the parties to the same, both as parties or witnesses, are living, except José Maria de Santa Maria, Henry Booth, and Robert T. Ridley, and reside in this county. I know the signature of Robert T. Ridley, and this is his signature. I saw him sign it. Josefa de Haro authorized J. Loreto Martinez in my presence to sign her name to the said instrument. Rosalia Brown was present, and authorized Charles Brown, her husband, to sign her name. Prudencio de Haro was present, and authorized José Maria Santa

163 Maria to sign his name, and Carlota and Candelario de Haro authorized Henry Booth to sign the said instrument.

(The witness here produces a paper marked Exhibit C, dated July 23, 1851, and signed Charles Brown, which paper is hereto annexed.)

I saw Charles Brown sign this paper. The body of the paper is in the handwriting of Henry Booth, who was clerk of Charles Brown. The signature is in the handwriting of Charles Brown himself. I have been informed by the family that Francisco de Haro died in 1848.

Question. Did the half league surveyed by Ransom adjoin the land on which the lake house stands?

Answer. I do not know it of my own knowledge. I have never been to the lake house, since the survey I mean.

Question. Do you know whether the heirs of the family have ever made any objections to the survey by Col. Ransom; and if so, when did they first object?

164 Answer. I cannot precisely fix the period, but I distinctly remember that, hearing of confirmations by metes and bounds, the leading members of the family have remonstrated against the re-

striction, or being confined to half a league, claiming the whole tract.

Question. At the time Col. Ransom was called on to make the survey, what was the understanding of the family about the quantity to be confirmed to them by the land commission? And was it understood that Col. Ransom, in said survey, was to mark out such portions as they claimed; and was it located as they desired?

Answer. The understanding of the family, that they were to have their rights asserted by their title papers; the papers spoke for themselves; and with regard to their approval of the lines run by Col. Ransom, I re-state that I heard of no remonstrance by the family.

Cross-examined.

Do you know, of your knowledge, that any of the heirs pointed out the lines of the land claimed by them to Col. Ransom, or that
165 they at any time approved the survey made by Col. Ransom?

Answer. I know nothing of my own knowledge, except the ipse dixit of Charles Brown, one of the heirs, and Col. Ransom. I was not on the ground when either the surveys were made. No, I do not know, of my own knowledge, that they have ever approved or disapproved the survey of Col. Ransom, but at a subsequent period they must have disapproved altogether of said survey, for theyhave their through other counsel (Horace Hawes) attempted to assert rights to the whole tract.

Question. Do you know, of your own knowledge, whether any of the heirs ever approved the preliminary survey of Col. Ransom?

Answer. I have never submitted it to any of them for their approval.

The claimant's counsel repeats the last question verbatim.

Answer. I cannot remember, upon my word and honor; but I remember that there was mention made by Mr. Denison why
166 the lake house of Charley Brown was not included in the survey. I mean by using the word "mention," that he objected on account of Charley Brown's lake house not being included in the survey.

Question. Did you at any time ever approve the preliminary survey of Col. Ransom?

Answer. I never knew that it was for me to approve or disapprove of such a survey. That it was for the parties to show bona fide the location of the property, as well as for the government to confirm it to them. I gave the survey a tacit approval, by handing it to the lawyers, as the survey of that ranch.

Question. Is this the only assent or approval you ever gave to that survey?

Answer. I know of no other.

Question. Were you present at the making of the survey?

Answer. I stated before that it was not. I have never been on

the ground since the survey, and I don't know where the lines are. I never knew the locality of the lines of that survey.

167 Question. Did you ever offer this tract of land for sale by Wainwright, Randall & Co?

Answer. I have no recollection of it, but, so far as I am concerned, I never offered it for sale.

Question. Were any lands taken up or covered by school warrants at or about the time of that survey in that neighborhood? If yea, by whom, and to what extent?

Answer. Immediately after the survey, I was informed that Charley Brown for one, and James Denison for another, and somebody for the other co-heirs, were running or having lines run to pre-empt some locations in that neighborhood, in what they considered the surplus of the rancho at that time; and on hearing that there was a large tract unoccupied, I proposed to Argenti, who had lots of school warrants to cover a number of acres, any quantity he wished, in which quantity, if it proved to be at a future period government land, all might have the benefit of a prior right; confident, as I was, that a Mexican grant would have the priority, and that thus

168 it could not in any way impair the rights of the family for whom I was acting particularly, when they themselves had helped themselves; but on learning that their assertion of their right to the whole tract was to be prosecuted before the government by them, I, as far as I was concerned, never knew of its location, sale, bargaining in any way or shape; have had no earthly interest in it, and have at no time, neither contributed with one cent, nor received one cent remuneration for proceeds from such a tract and transaction. I first learned there was an excess immediately after the survey was made.

Question. Do you know, of your own knowledge, whether James Denison or Charles Brown located pre-emption claims upon this supposed excess of land?

Answer. My impression is, that one or both of them told me at the time, as well as that I have in my conversations defined to them, how little importance a Mexican grantee ought to attach, when having a legal and bona fide title, to have all his land covered with school warrants, as they were things that could be floated; and I may have added at the time, from the fact that I feel so

169 now, that if it was to be a thing that the devil was to get, it might much better be in an angel like me, who had long known them and befriended them.

Question. When did you first speak to Mr. Argenti on this subject, whether before or after the survey; and if after, how long?

Answer. It must have been immediately after the survey.

Question. When you first spoke to Argenti, did you exhibit to him a map of the survey?

Answer. I did not. I referred him to the surveyor general's office.

Question. State, if you know, what surveyor located the Argenti school warrants?

Answer. I do not know, of my own knowledge. I infer it must have been the county surveyor; but prior to its ever taking place, if it has, up to this day and hour I have not known anything about it, nor considered myself with any interest in it.

Question. State, if you know, whether Argenti ever paid
170 any person for the information where to locate his warrants.

Answer. I do not know whom he may have paid or rewarded. My account in his bank at that time showed nine or ten thousand dollars idle to my credit. I never found any increase but by deposits made by me, and I have stated before that I never received one cent from the transaction.

Question. Was it ever understood that you were ever, in any event, to have any interest in the lands covered by the school warrants, or to have any kind of remuneration from any source, or person, for your services, or for your information upon the subject of locating these warrants?

Answer. There was no remuneration whatever, neither asked by me, nor tendered me, nor expect to have any. I have stated that I conceived of the idea of taking an interest in the location, from the fact that I had too much land already for my own good; and the talk among the co-heirs of de Haro, to show them clean hands, I never gave it a second thought.

The Galindo ranch is an older grant than the Noe grant. I
171 mean that the grant to Nasario Galindo was prior to the grant to Noe. I do not mean to say that the title of Galindo calls for its northern boundary to adjoin Noe, but understand that that of Noe was granted in 1846, bounded on the south by the Galindo rancho. I employed Clarke, Taylor and Beckh to present and prosecute this claim before the land com. and other courts.

I told Charley Brown to designate the lands within the boundaries that best suited their purposes, and in this connection I referred to Charley Brown and not the other heirs.

Question. In your examination in chief, whenever you speak of conferring or advising with the heirs in reference to this preliminary survey, do you mean that you conferred with any others of them except Charles Brown?

Answer. I may have conferred with the counsel in getting the papers out of the surveyor's office, from the fact that I was in a different branch in the same office, but have no distinct recollection of what may have taken place between the running of the first
172 and second lines, considering both part and parcel of the preliminary survey. I never conferred with any of the heirs except Charles Brown, only I told Mr. Denison they were about to make the survey, and this was, in substance, my conference with Brown.

Question. You say in your examination in chief that you understood from both Brown and Col. Ransom that Charles Brown and old Mr. Sanchez pointed out the lines and boundaries to Col. Ransom at the time of making the survey. In that did you refer to the survey of the whole land, or only that of the half league?

Answer. If my memory serves me right, it was some time after the survey was made (I mean the full survey,) and therefore deduced that it was in reference to the map handed in by Col. Ransom.

Question. May you not be mistaken, and could not their representations have referred as well to the general survey?

173 Answer. The fact that Charles Brown had pointed out the lines, leaving the lake house outside, and Col. Ransom stating to me that he had run other lines for the said Brown, were sufficient to fix in my mind the idea that it referred to the final survey, the half league.

I do not know of any other reason than the three stated in my examination in chief to induce the conclusion or belief in my mind that the heirs approved the preliminary survey of Col. Ransom.

Brown, Denison and Tissot (if my memory serve me right as to Tissot) told me that they had pre-empted lands outside the half leagues survey, within the external boundaries of the rancho Laguna de la Merced. They made no reference to the external lines.

I had the rancho of Laguna de la Merced sold by order of the court. I delivered a deed for the same, for David Mahoney, to my counsel, Harvey S. Brown.

I obtained Exhibit A from Don José de Jesus Noe, with Noe's papers. I got it in 1851 from Noe.

RAMON DE ZALDO.

Subscribed and sworn to before me this 8th day of October,
174 A. D. 1860.

JAS. RICE,
Notary Public.

STATE OF CALIFORNIA,
City and County of San Francisco:

I, James Rice, a notary public in and for said city and county, duly commissioned and sworn, do hereby certify that I was attended by the respective attorneys of the parties in the above cause; that the said witness in the foregoing deposition named was by me duly sworn to testify the truth, the whole truth, and nothing but the truth; that the foregoing deposition was reduced to writing by me, and taken on this eighth day of October, A. D. 1860, pursuant to the annexed stipulation, and when completed, was carefully read over by me to the said witness, and being corrected by him, was then subscribed by the said witness in my presence.

In testimony whereof, I have hereunto set my hand and affixed my official seal this 8th day of October, A. D. 1860.

JAS. RICE,
[SEAL.] *Notary Public.*

175 *Exhibit A to dep. of R. de Zaldo.*

Sor. Juez de Pas, Sup'te:

Francisco de Haro, resino de esta Jurisdicc'n ante V. comparese; y hace presente; soy sabedor estrajudicialm'te que en terrenos del

rancho de mi propiedad (en las Bolsas) se hayo pastando una cantidad de Caballado de D. Ramon Carrillo; y p'r anuencia del Sarg'te Nazario Galindo, segun tambien estrajucialm'te soy sabedor; estoy entendido q'l de esta verdad sera sabedor el neofito que la hacindado, asi como el moro encargado dedha Caballado; en tal concepto pido se examine, al neofito; y las sircumstancias conque la hav introducido á mi dho terreno; q'l yo estoy pronto a probar contitulo y diseño ser propiedad mias las Bolsas en que disen las hav tenido, hacealgunos dias. P. T.

N. V. pido obre conforme ajusticia en que recebiré gracia juro lo n. &c.

Establecim'to de Dolores, Oct. 2d, de 1842.

FRANCISCO DE HARO,
(*Rubric.*)

176 *Exhibit B. to dep. of R. de Zaldo.*

Los abajo firmados hijos legitimos del difunto, Don. Francisco de Haro.

Q. E. T. D. Encla Mission Dolores hoy 30 de Julio de 1850: venimos en nombrar y nembramos por Administrador de los bienes de nuestro difunto Padre á Don Ramon de Zaldo en quien concurren los requisitos prebienen las leyes, y es merecedor de nuestra confianzos, por tanto cesará, la administracion que hasta la fecha ha desempeñado, Don Julius K. Rose y con el fir de elucidar nuestra voluntad y conformidad, Otorgamos el presente ante los testigos de asistencia, Don José de Jesus Noe y Don Roberto T. Ridley.

[SEAL.] JOSEFA DE HARO,
Vinda de Guerrero amego.

J. LORETO MARTINEZ,
(*Rubric.*)

[SEAL.] ROSALIA BROWN,
(*Rubric.*)

[SEAL.] Prudencio de Haro á ruego José Maria Santa Maria (á la vuelta) (de la vuelta,) Carlota de Haro. Candelaria de Haro á ruego.

[SEAL.] HENRY BOOTH.

Testigos :
ROBERT T. RIDTTEY.
J. DE JESUS NOE.
(*Rubric.*)

177 *Exhibit C to dep. of R. de Zaldo.*

NOTICE: The heading of document "Exhibit C" is partially destroyed, and therefore only part of it is written.—*Copyist.*

DE ASIS, *July* 33, 1837.

DEAR SIR: Having appointed the bearer of this, Ramon de Zaldo, esq., my lawful attorney, to represent me and my wife in all things pertaining to the estate of "Haro," deceased, you will please transfer to him all the documents and accounts at present in your possession concerning same estate, in which I, together with my wife, are interested, in order to arrive at a final settlement.

Very resp'y, your obe'nt ser't,

CHARLES BROWN.

JULIUS ROSE, Esq., *San Francisco.*

Endorsed: JULIUS ROSE, Esq., *San Francisco.*

Stipulation.

178 It is stipulated and agreed that the foregoing testimony of Ramon de Zaldo may be read as evidence in the above-named cause, subject to all legal objections, except to the manner and form of taking the same.

October 8ht 1860.

McDOUGALL & SHARP,
STEBBINS & TOMPKINS,
Att'ys for Claimant and Intervenor.
WISE & GOUGH, *Att'ys for U. S.*
PORTER & SAWYER,
Att'ys for Respondents and U. S.

Endorsed: Filed January 25, 1861.

W. H. CHEVERS, *Clerk.*

179 *Dep. of Leander Ransom, on part of U. S.*

District court of the United States, northern district of California.

THE UNITED STATES
vs.
JOSEFA DE HARO *et al.*

SAN FRANCISCO, *Nov'r 19th,* 1860.

On this day, before me, Cutler McAllister, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Leander Ransom, a witness produced on behalf of the United States, in case No. 380, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 102 on the docket of the said board of commissioners, and was duly sworn and testified as follows.

Present: Calhoun Benham, dist. att'y, by Tully R. Wise, Sharp and Tompkins for cl'm't and assignees.

Question 1st by counsel for the United States.

Ques. 1. Your name, age, and place of residence?

Ans. 1. Leander Ransom; slightly over twenty-one years of age; I reside in San Francisco. I held the office of chief clerk in

180 the surveyor general's office from July, 1851, to Sept'r, 1857. I know all the lands in controversy in this case.

Ques. 2. Please state if you ever made any survey of the Laguna de la Merced.

Ans. 2. I made a survey in 1853 of the land claimed and the land allotted to the claimants in this case by the surveyor general. An application was made by Clark, Taylor and Beckh, att'ys for the heirs of de Haro, to Mr. S. D. King, who was then the surveyor general, requesting him to have a survey made of the land called the Laguna de la Merced. This application was made, I think, the early part of June, 1853; I am not positive as to the date; I judge of its being the early part of June for the reason that on the 12th June, 1853, the surveyor general gave me instructions in the capacity of deputy surveyor to survey this ranch. On the 8th July I commenced the survey. I had on the ground José de la Cruz Sanchez and a gentleman by the name of Charles Brown, who was the husband of one of the heirs, as I understood. He was on the ground the first day and part of other days. Sanchez was there only the

181 first day. Sanchez pointed out to me what he considered the boundaries of the Buri Buri, the Noe, and the Visitacion. I made a survey according to those lines which they pointed out as the exterior boundaries of the ranch as claimed, as containing the land in this claim. I also ran a line along the sea-coast and a northern line, which they pointed out to me as the line dividing the pueblo lands from the lands claimed in this case. I then made a map and the calculation of the quantity of land included in those boundaries. I found the quantity to considerably exceed one league, and as the grant, as I understood it, called for one-half a league, I gave a copy of the map to R. de Zaldo, who was, as I understood, at that time the administrator for the estate of de Haro, with the request that he should submit the map to the heirs, that they might select the half league from within the boundaries. Some two or three weeks after I submitted the matter to him he returned the map to me with the boundaries of a half league marked on the map, as he said they had selected it. In a few days after that I went out and made the

182 measurements and stuck the stakes at the corners of the land which it was represented by the administrator that they had selected. In making this last survey, which took but a few hours, either Brown or Denison accompanied me. Dennison also married one of the heirs. I think it was Dennison. I conversed with Brown and Dennison afterwards about the survey, and they made no objections at that time with it. After this half league was surveyed a copy of the map and field-notes was sent to the land commission by the surveyor gen'l, he having previously approved of it. I never spoke to any of the heirs in this case except Brown and Dennison. At the time I commenced the survey Mr. King was surveyor gen'l; before I completed it Mr. King had left the office and Col. Hays was surveyor gen'l. He approved of the survey. There were several men about at the time I was making the survey. One of the lines I surveyed ran near Clark's house.

Cross-examination.

I made the survey while I was clerk in the surveyor general's office. I made it in the capacity of deputy surveyor.

183 When I spoke of making the survey of the lands claimed by, and the lands allotted to, the claimants. I meant by the lands claimed the boundaries out of which they expected to have a half league—that is, the exterior boundaries of the tract.

Besides what José de la Cruz Sanchez told me, I judged of the boundaries, and that what he pointed out were the correct ones, from my examination of the papers in the Buri Buri rancho, and of the papers in this case.

I had no other knowledge with regard to the boundaries than that I obtained from Brown, Sanchez, and the documents in the case.

I made a survey of the land which was supposed to include the land claimed as the Laguna de la Merced; I mean by alloting the land approved by the surveyor gen'l to the cl'm'ts, after they had selected it, as I understood, and the map was brought to me with the half league marked out upon it.

I only know from what the administrator told me, and from the apparent acquiescence of Brown and Dennison, that the heirs had marked out this half league. I know no other way than what

184 I have mentioned of the selection by the heirs.

Neither Brown nor Dennison by any word or act (except apparent acquiescence) ever made any selection of the land surveyed to my knowledge.

I do not know of my own knowledge that Clarke, Taylor, and Beckh had had any authority to ask for a survey. I only know it from de Zaldo, and from the document.

I do not know of my own knowledge that de Zaldo was administrator. De Zaldo gave me a note and mortgage of some land belonging to the estate, which mortgage he signed as administrator.

José de la Cruz appeared to be sober at the time he appointed out the lines to me. He rode over the lines with me, and remained on the ground several hours. He was there at my request.

Neither de Zaldo nor Clarke, Taylor, and Beckh were there whilst the survey was being made.

I do not know of Brown or Dennison expressing any dissatisfaction to de Zaldo in reference to the survey.

As the northern line of the Buri Buri ranch, one of the

185 exterior boundaries of the 1st survey, Sanchez pointed out to me a peculiar formation in the hill, a wash place, of reddish earth that you could see for a long distance; other was a lake near Clark's house, and the appearance of a foundation of an old house the north side of it, and the small lake on the top of a hill called Laguna Alta, and a direct line from that laguna to the ocean was supposed to be the northern line of the San Pedro ranch. The west line of the Noe ranch was pointed out to me by Brown. The marks were some posts and stones. Sanchez pointed out to me as the bound-

ary an old road; the posts and stones were inside—that is, westward of the road--but Brown appeared to be satisfied with having the posts and stones as such; and I therefore made them one of the boundaries. These were all the lines that were pointed out to me, except the line bordering on the Visitacion rancho, and a portion of the north line.

No lines or marks were pointed out to me except by Brown and Sanchez.

I don't know if I have the map alluded to with the ½ league marked on it; it was marked in pencil. I don't think I have it.

186 I don't know that there were any other marks on the map than these points marked with pencil.

I was not present when these marks were put upon the map.

The map was returned to me by de Zaldo with these marks on it, and I understood from de Zaldo, who I supposed, at the time, was administrator, that they wanted their ½ league in that corner.

I do not know of my own knowledge who made those marks on the map.

I do not know what became of that particular map.

Do not know of my own knowledge whether any of the heirs ever seen that map.

I talked at one time of being interested in the location of some land warrants on a portion of the land left out by the half-league survey.

Ques. 3. Were you ever interested in the location of some land warrants within the exterior boundaries of the Laguna de la Merced, as laid down on your first survey?

(Objected to on account of irrelevancy.)

Ans. Some ten days after the half league was separated, and

187 the final location was made, I had some conversation with Argenti on the subject of locating some school warrants on a portion of the land that was left out of the location.

He proposed, if I would make him certain maps of the land and pay him a certain amount of money, that he would furnish the school warrants and make the location.

I made the maps for him, and he made the location of the school warrants, as I understood.

I was to have had for this an interest on the land, according to the amount of money I paid him. This was a verbal understanding.

I have never paid him any money; have no interest in the land, and never expect to have any.

He never paid me anything for my services.

I never had any conversation with Argenti in regard to the location of the land warrants until after the location of the half league was made.

I expected, if the land had been public land, to have paid him some money and taken some land.

Ques. 4. Did you ever, at any time, agree to take an interest in the land covered by the warrants, and to pay Argenti for the same?

188 Ans. I don't know that there was any particular agreement with regard to it; but there was an understanding, that if the

land was public land I was to pay him some money and take an interest in the land.

My impression now is, that Argenti spoke to me about this matter first. Several persons were making locations there, and the matter became a public matter. I believe Brown and Tracy made location of land warrants there before Argenti did. This was not Charley Brown.

I am not aware of any declaration of trust executed by Argenti, in which he stated that he held lands in trust for me.

Ques. 5. Were you not to get from Argenti 1-10 of the land covered by the land warrants in consideration for your services in giving him the information to enable him to locate the warrants?

Ans. 5. There never was any understanding of that kind that I am aware of. I was not to have any interest in the land for his services and information, unless I gave him money. I was to have no
189 interest at all without paying so much money. The amount I was to pay was in proportion to the cost of the school warrants and the land I was to get. I supposed de Zaldo was to have an interest also in the location of the school warrants. I never heard Argenti say so.

Direct examination resumed.

Either Dennison or Brown—I think it was Dennison—went with me in a buggy when I went to make the second survey.

Of course the person who went with me knew that I went to survey the ½ league of land that they had selected and marked out on the map.

I think the maps marked No. 1 and 2, on file in the transcript in this cause, are copies of the maps made by me on the 1st and 2d surveys made by me.

The half league marked on these maps corresponds to the ½ league marked out on the map handed to me by de Zaldo, and which I suppose was marked out by the heirs.

It is marked out by me precisely as I supposed, from de Zaldo, that the heirs wished it marked out.

This map was a rough map of the exterior boundaries made out by me.

190 I heard Dennison say as much as that he located possessory rights inside of the exterior boundaries and outside of the ½ league.

Cross-examination.

When I surveyed the half league, Dennison did not point out any lines to me; I followed the marks on the map.

LEANDER RANSOM.

Subscribed and sworn to before me this 19th day of Nov'r, A. D. 1860.

[SEAL.] CUTLER McALLISTER,
U. S. Com.

Endorsed: Filed April 10, 1861.

W. H. CHEVERS, *Clerk.*

Order to close proofs in 60 days.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Monday, the ninth day of December, in the year of our Lord one thousand eight hundred and sixty-one.

191 Present: The honorable Ogden Hoffman, district judge.

THE UNITED STATES
v. } 380.
JOSEFA DE HARO *et al.*

And now, at this day, on motion of Tully R. Wise, esq., of counsel for the U. S., Mr. Thompkins, of counsel for claimants, being present, it is ordered by the court that the proofs herein be closed within sixty days from this date.

Endorsed: Filed December 9, 1861.

W. H. CHEVERS, *Clerk.*

Copies from probate court.

(A.)

In the probate court—city and county of San Francisco.

In the matter of the estate of Francisco de Haro, deceased.

The undersigned, administrator of said estate, respectfully shows to this hon. court, that no personal property belonging to the deceased came to the hands of your petitioner and that he has

192 no personal property belonging to said estate, now in his hands.

That the estate of deceased consists of real estate alone; that there are no debts of deceased outstanding; that the expenses of administration which remain unpaid for want of funds amount to between two and three thousand dollars; that it is absolutely necessary to sell some portion of the real estate to pay said expenses; that, as petitioner is informed and believes, the deceased was seized and possessed of the following parcels of real estate: the Portrero Nuevo, the whole or greater portion of which has been sold out to third parties, by the heirs; two lots of the value of $4,000 or $5,000, at the mission Dolores, the title to which was presented before the board of land commissioners, and by that board rejected; one league by half a league of land called Laguna de la Merced, situate in the city and county of San Francisco, and county of San Mateo, of the value of $25 per acre; that the heirs of said deceased are Pendencio de Haro, Josepha de Haro, Rosalia de Haro, Carlotta de Haro, Notindad de Haro, and Condolario de Haro, adults; and Alonzo de Haro, an infant.

193 Wherefore your petitioner prays that such portion of the real estate may be sold as shall be sufficient to pay off all the expenses of administration.

RAMON DE ZALDO.

Sworn to and subscribed before me this 17th day of August, 1857.

DENIS LYONS,
Dep. Co. Clerk.

Endorsed: Filed August 17th, 1857.

DENIS LYONS, *D. C.*

Order of sale.

In the probate court, city and county of San Francisco, State of California.—September term, A. D. 1857.

MONDAY, *October 26th*, 1857.

Present: Hon. T. W. Freelon, Co. judge.

In the matter of the estate of Francisco de Haro, deceased.

It appearing to my satisfaction that the estate of Francisco de Haro is indebted to Ramon de Zaldo in the sum of $2,055\frac{59}{100}$ for
194 moneys paid out and services rendered as administrator of said estate, and it further appearing that the said estate is not possessed of any money or personal property wherewith to pay the said demand, and that there is a sufficient amount of real estate belonging to said estate to pay and satisfy said demand, and the several heirs of the deceased having been heard in opposition to the petition of said de Zaldo, asking for an order of sale of real estate, and such objections having been overruled: Now, therefore, it is ordered that the administrator be, and he is hereby, authorized and empowered to sell so much and such part of the real estate described in said petition, and hereinafter set forth, as shall be necessary to pay the said sum heretofore found due said de Zaldo and expenses of sale.

The property of which a sale is hereby authorized is described in said petition as being one league by half a league of land called Laguna de la Merced, situated in the city and county of San Francisco, and county of San Francisco, and county of San Mateo. Said sale shall be conducted in accordance with the provisions of the statute regulating the sales of real estate of deceased persons.

T. W. FREELON,
Co. Judge.

195 (Probate minutes No. 4, page 274.)

Order of sale.

In the probate court, city and county of San Francisco, State of California.—March term, A. D. 1857.

MONDAY, *April 13th*, 1857.

Present: Hon. T. W. Freelon, Co. judge.

In the matter of the estate of Francisco de Haro, deceased.

It appearing to the satisfaction of this court that an order of this court was made on the 26th of August, 1851, appointing Ramon de Zaldo general administrator of said estate; that the said de Zaldo duly filed his administrator's bond in pursuance of said order, and that letters of administration were duly issued from this court to the said de Zaldo; and it further appearing that said order, through some misunderstanding or oversight, was not entered in the records of this court: Now, at this day, all persons interested having been duly cited to appear and show cause why the said order should not be entered nunc pro tunc, why the order of this court heretofore made
196 appointing said de Zaldo special administrator of said estate, and the order of this court heretofore made appointing Charles Brown general administrator of said estate, should not be vacated as irregular, and why so much of the real estate of said de Haro as may be necessary to pay the bill of J. Clark against said estate should not be sold, and all and singular the premises and the proofs taken having been fully considered by the court, it is now ordered by the court that the said order appointing Ramon de Zaldo general administrator of the estate of Francisco de Haro be entered in the records of this court, now, as of the 26th day of August, 1851; that the said order heretofore made, third day of April, 1854, appointing Charles Brown administrator of said estate, be and the same is hereby vacated and annulled; that the bill of services of J. Clark, referred to in his petition, be and same is hereby fixed and approved, at seven hundred dollars. And it appearing that there is no personal estate of said de Haro,

It is ordered that the said Ramon de Zaldo, administrator of said de Haro, sell at public auction, for cash, by H. Cobb, auc-
197 tioneer, on Saturday the 2d day of May, at 12 o'clock on said day, after duly advertising the same as required by law, so much of the tract of land called La Merced, belonging to said estate, as may be necessary to raise said sum of $700, together with the costs of this application to be taxed by the clerk and the costs of said sale, and that he report said sale to this court. It is further ordered that the said de Zaldo file an additional bond in the penal sum of $2,000, with sureties to be approved by the clerk, on or before the 1st day of April next.

T. W. FREELON,
Co. Judge.

March 23d, 1857.

(Probate minutes No. 4, page 1.)

Order of confirmation of sale.

In the probate court, city and county of San Francisco, State of California.—May term, A. D. 1858.

MONDAY, *June 21st*, 1858.

Present: Hon. M. C. Blake, probate judge.

198 In the matter of the estate of Francisco de Haro, deceased.

Upon reading and filing the report of Ramon de Zaldo, administrator of the estate of Francisco de Haro, dec'd, of his proceedings in making a sale of the rancho Laguna de Merced, belonging to said estate, and it appearing to the court that the sale was legally made and fairly conducted, and that the sum bid was not disproportionate to the value of the property sold, and that a greater sum cannot be obtained: Now, therefore, it is ordered by the court now here that the said sale be and the same is hereby confirmed in all respects; and it is further ordered that the said administrator be directed, and he is hereby directed, to execute a good and sufficient conveyance to the purchaser, Josepha de Haro Denniston.

Witness my hand at the court-room of said court, in the said city and county of San Francisco, this 21st day of June, A. D. 1858.

M. C. BLAKE, *Probate Judge.*

(Probate minutes No. 5, page 33.)

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

199 I, Washington Bartlett, county clerk of the city and county of San Francisco, State aforesaid, and ex officio clerk of the probate court thereof, do hereby certify the foregoing to be full, true, and correct copies of the petition of the administrator for an order of sale of real estate, and also of orders duly entered of record upon the minutes of said probate court, in the matter of the estate of Francisco de Haro, deceased.

In witness whereof, I have hereunto set my hand and affixed [SEAL.] the seal of said probate court this 10th day of April, A. D. 1861.

WASHINGTON BARTLETT, *Clerk,*
By C. BARTLETT, *Deputy.*

Endorsed: Filed Feb'y 19, 1862.

W. H. CHEVERS, *Clerk.*

Copies from probate court.

(B.)

In the probate court, city and county of San Francisco, State of California.

In the matter of the guardianship of Alonzo Haro as minor.

Attested letters of guardianship were this day issued to Charles Brown, April 7th, 1853.

200 OEFICE OF THE COUNTY CLERK
of the City of San Francisco, ss:

I, Washington Bartlett, county clerk of the city and county of San Francisco, State of California, and ex officio clerk of the probate court, in and for said city and county, do hereby certify the foregoing to be a full, true, and correct copy of an entry duly made and entered in "Book of Minutes No. 2, page 91" of said probate court.

Witness my hand and the seal of said probate court this 17th day [SEAL.] of February, A. D. 1862.

WASHINGTON BARTLETT, *Clerk*,
By C. BARTLETT, *Dep. Cl'k.*

Endorsed: Filed Febr'y 19, 1862.

W. H. CHEVERS, *Clerk.*

Copies from probate court.

(C.)

CANDALARIA DE HARO and CARLOTA DE HARO, ex parte. } County of San Francisco.

To the Judge of Probate of said court:

The petition Candalaria de Haro and Carlota de Haro respectfully showeth, that said petitioners are minors of the age of eighteen years; that their late father, Francisco de Haro, died in said county.
201 in the year 1846, the mother of said petitioners having died previously. That said petitioners are the owners of certain property in said county, of the value of about five thousand dollars each, the same being now in the hands of the administrator of the said Francisco de Haro.

That to provide for the maintenance and education of said petitioners it is necessary that a guardian should be appointed for them by the probate judge of said county.

That to this end they respectfully nominate, as a person suitable and competent to the discharge of said trust, Ramon de Zaldo, of the city of San Francisco.

They, therefore, respectfully pray that the said Ramon de Zaldo may be duly appointed their said guardian.

And, as in duty bound, &c.

CANDALARIA DE HARO.
CARLOTA HARO.

SAN FRANCISCO, *August 18th*, 1852.

Endorsed: Filed Aug. 19, 1852.

R. G. CROZIER, *D. C.*

Endorsed: Enter order of appointment on filing bond in the sum of $10,000 to each of the minors.

ALEX. CAMPBELL,
Co. Judge.

Aug. 19, 1852.

202 In the probate court of the county of San Francisco.

In the matter of the estate of Francisco de Haro, deceased.

On reading and filing the sworn petition of Ramon de Zaldo, praying to be appointed special administrator of the estate of Francisco de Haro, deceased, and it appearing thereby that such appointment is necessary for the preservation of said estate, it is ordered that the said Ramon de Zaldo appointed special administrator of said estate, with power to collect and take charge and possession of the same, and to institute and carry on all such suits as in his judgment may be necessary against any and all persons trespassing upon the said estate, or any part or portion thereof, on filing bond, approved by the court, in 3,000.

Endorsed: Filed July 28, 1853.

O. BAILEY.

In the matter of the estate of Francisco de Haro, it appearing to the satisfaction of the court that an order of this court was made 26th of August, 1851, appointing Ramon de Zaldo general administrator of said estate, that the said de Zaldo duly filed his admin-
203 istrator's bond in pursuance of said order, and that letters of administration were duly issued from this court to the said de Zaldo; and it further appearing that said order, through some inadvertency or oversight, was not entered in the records of this court: Now, at this day, all persons interested having been duly cited to appear and show cause why the said order should not be entered *nunc pro tunc*—why the order of this court, heretofore made, appointing said de Zaldo special administrator of said estate, and the order of this court heretofore made, appointing Charles Brown general administrator of said estate should not be vacated as irregular, and why so much of the real estate of said de Haro as may be necessary to pay the bill of J. Clarke against said estate should not be sold, and all and singular the premises and the proofs taken having been fully considered by the court—it is now ordered by the court that the said order appointing Ramon de Zaldo general administrator of the estate of Francisco de Haro be entered in the records of this court now, as of the 26th day of August, 1851, that the order heretofore made third of April, 1854, appointing Charles
204 Brown administrator of said estate, be and the same is hereby vacated and annulled; that the bill of services of J. Clarke, referred to in his petition, be and the same is hereby fixed and approved at seven hundred dollars. And it appearing that there is no personal estate of said de Haro, it is ordered that the said Ramon de Zaldo, administrator of said de Haro, sell at public auction, for cash, by Cobb, auctioneer, on Saturday the 2d day of May, 1857, at 12 o'clock on said day, after duly advertising the same, as required by law, so much of the tract of land called la Merced, belonging to said estate, as may necessary to raise said sum of $700\frac{6}{100}$, together

with the costs of this application, to be taxed by the clerk, and the costs of said sale, and that he report said sale to this court. It is further ordered that the said de Zaldo file an additional bond in the penal sum of $2,000, with sureties to be approved by the clerk, on or before the 1st of April next.

T. W. FREELON,
Co. Judge.

March 23d, 1857.

Endorsed: Filed March 23d, 1857.

DENIS LYONS, *D. C.*

STATE OF CAIFORNIA,
205 *City and County of San Francisco, ss*:

I, Washington Bartlett, county clerk of the city and county of San Francisco, and ex officio clerk of the probate court thereof, do hereby certify the foregoing to be a true, correct copy of the proceedings in the estate of Francisco de Haro, deceased, of record and on file in said court.

[SEAL.] Attest my hand and the seal of said court this 24th day of November, A. D. 1860.

W. BARTLETT, *Clerk*,
By C. BARTLETT, *Deputy Clerk.*

Endorsed: Filed Feb'y 19, 1862.

W. H. CHEVERS, *Clerk.*

Deed from Middleton et al. to L. Parsons.

John Middleton *et al.* to L. Parsons.

This indenture, made the twenty-sixth day of January, in the year of our Lord one thousand eight hundred and sixty-one, between John Middleton and Samuel P. Middleton, of the city and county of San Francisco and State of California, parties of the first part, and
206 Levi Parsons, of the same place, party of the second part, witnesseth: that the said parties of the first part, for and in consideration of the sum of fifteen thousand dollars, lawful money of the United States of America, to them in hand paid by the said party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, and by these presents do grant, bargain, and sell unto the said party of the second part, and to his heirs and assigns forever, all the undivided one-half part of all that certain tract or parcel of land known as the Lake House property, near the line which divides the city and county of San Francisco from the county of San Mateo, containing upwards of six hundred and forty acres, with the buildings and improvements thereon; commencing at the bridge northwest from said lake house, and running thence south sixty-two and one-half degrees ($62\frac{1}{2}°$) east, three chains seventy-

six links; thence south fifty-six and three-quarter degrees ($56\frac{3}{4}°$) east, seven chains fifty-three links; thence south forty-five degrees ($45°$) east, four chains seventy-four links; thence south thirty-four degrees forty minutes ($34°$ 40′) east, three chains and fifty-nine links;
207 thence south forty-one and one-half degrees ($41\frac{1}{2}°$) east, eight chains twenty-six links; thence south thirty-nine and one-half degrees ($39\frac{1}{2}°$) east, five chains forty-three links; thence south sixty-eight and one-half degrees ($68\frac{1}{2}°$) east, eight chains sixty-eight links; thence south eighty-five degrees ($85°$) east, seven chains; thence south forty-nine degrees twenty minutes ($49°$ 20′) east, five chains sixty-seven links; thence south thirty-two and one-half degrees ($32\frac{1}{2}°$) east, seven chains eighty links; thence south twenty-eight and one-half degrees ($28\frac{1}{2}°$) east, ten chains fifty links; thence south forty-one and one-half degrees ($41\frac{1}{2}°$) east, fourteen chains; thence south fifty-six degrees twenty minutes ($56°$ 20′) east, seven chains nine links; thence south twelve degrees ($12°$) west, eleven chains forty-one links; thence north fifty-seven and one-half degrees ($57\frac{1}{2}°$) east, six chains twenty-eight links; thence south eighty-eight and one-half degrees ($88\frac{1}{2}°$) east, fifteen chains seventy-five links; thence north seventy and three-quarter degrees ($70\frac{3}{4}°$) east, eight chains seventy-four links; thence south seventy-nine degrees ($79°$) east, twenty-three chains ninety-four links; thence south thirty-six and one-half
208 degrees ($36\frac{1}{2}°$) east, four chains eighteen links; thence south seventy degrees twenty minutes ($70°$ 20′) east, thirteen chains eighty-eight links; thence north sixteen and one-quarter degrees west, sixty-one chains thirty-eight links; thence north sixteen and one-quarter degrees ($16\frac{1}{4}°$) west, sixty-one chains and thirty-eight links; thence north forty-seven and three quarter degrees ($47\frac{3}{4}°$) west, fifty links; thence north eighty-eight degrees twenty-five minutes ($88°$ 25′) west, twenty chains seventy-eight links; thence north sixty-nine degrees ($69°$) west, seven chains twenty eight links; thence north sixty-three and one-quarter degrees ($63\frac{1}{4}°$) west, two chains ten links; thence north eighty-three degrees ($83°$) west, one chain sixty-eight links; thence south seventy-three and three-quarter degrees ($73\frac{3}{4}°$) west, three chains ninety-five links; thence south eighty-two and one-quarter degrees ($82\frac{1}{4}°$) west, nine chains; thence south seventy and one-quarter degrees ($70\frac{1}{4}°$) west, four chains twenty-one links; thence north sixty-nine degrees ($69°$) west, eight chains sixty-five links; thence north fifty-six degrees ($56°$) west, fourteen chains seventy-eight links; thence north sixty-five and one-quarter degrees ($65\frac{1}{4}°$) west, three chains eighty-eight
209 links; thence south sixty-five degrees ($65°$) west, seven chains twenty links; thence north sixty-three and one-quarter degrees ($63\frac{1}{4}°$) west, seven chains ninety-two links; thence south seventy-three and one-half degrees ($73\frac{1}{2}°$) west, three chains forty-three; thence south eighty-five degrees thirty-five minutes ($85°$ 35′) west, nine chains fifty-nine links; thence south forty-four and one-half degrees ($44\frac{1}{2}°$) west, four chains; thence south fifty-three degrees ($53°$) west, eight chains seventy-five links; thence south sixty-eight and three-quarter degrees ($83\frac{3}{4}°$) west, three chains nineteen links; thence south seventy-four degrees ($74°$) west, two chains ninety-six

links; thence north twenty-nine and one-half degrees (29½°) west, four chains seven links; thence north fifty-three and three-quarter degrees (53¾°) west, six chains twelve links; thence north fourteen and one-half degrees (14½°) west, two chains fifty links; thence north forty-one and three-quarter degrees (41¾°) west, four chains sixty-eight links; thence north seventy-five and one-half degrees (75½°) west, three chains sixty-four links; thence south seventy-five
210 and three-quarter degrees (75¾°) west, five chains fifty-five links; thence south sixty-three degrees (63°) west, three chains ninety-three links to the point of commencement. And also more particularly described as follows, to wit: commencing at a point twelve chains due north from the southeastern corner of the above described tract of land; thence due north forty chains; thence due west forty chains; thence due north twenty chains; thence due west eighty chains; thence due north twenty chains; thence due west twenty chains; thence due south forty chains; thence due east twenty chains; thence due south twenty chains; thence due east forty chains; thence due south twenty chains; thence due east eighty chains, to the place of beginning. Both of the foregoing descriptions include principally the same piece, excepting out of the premises above described a certain tract heretofore sold to one Daniel Green, by deed dated the twenty-sixth day of May, A. D. one thousand eight hundred and sixty, and recorded in liber 108 of deeds, page 169, in the county recorder's office in and for the city and county of San Francisco, together with all and singular the tenements, hereditaments, and appurte-
211 nances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said parties of the first part, of, in, or to the above described premises, and every part and parcel thereof, with the appurtenances: to have and to hold all and singular the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, his heirs and assigns forever.

In witness whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

JOHN MIDDLETON. [SEAL.]
S. P. MIDDLETON. [SEAL.]

Signed, sealed and delivered in the presence of—

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

On this twenty-sixth day of January, A. D. eighteen hundred and sixty-one, before me, Wm. Wilson Lawton, notary public in and for the said city and county, personally appeared John Middleton
212 and S. P. Middleton, to me personally known to be the persons described in and who executed the foregoing instrument, and severally acknowledged to me that they executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

In witness whereof, I have hereunto set my hand and affixed my notarial seal, the day and year in this certificate written.

[SEAL.] WM. WILSON LAWTON,
Notary Public in and for the city and county of San Francisco.

A true copy of an original recorded at request of Wm. Hermann, Feb'ry second, 1861, at sixteen min. past three o'c. p. m.

G. W. BECKH,
County Recorder.

I, Thomas Young, county recorder in and for the city and county of San Francisco, do hereby certify that the foregoing is a full, true and correct copy of an original record now in my office, as will appear by reference to liber 124 of deeds, page 124.

[SEAL.] Witness my hand and official seal, this ninth day of January, A. D. 1862.

213

T. YOUNG,
County Recorder.
Pr. T. R. MORGAN.
Deputy.

Endorsed: Filed Febr'y 19, 1862.

W. H. CHEVERS, *Clerk.*

Deed from Middleton et al. to D. Green.

John Middleton to Dan'l Green.

This indenture, made the twenty-sixth day of May, in the year of our Lord one thousand eight hundred and sixty, between John Middleton, of the city and county of San Francisco, State of California, party of the first part, and Daniel Green, of same place, party of the second part, witnesseth, that the said party of the first part, for and in consideration of the sum of dollars, lawful money of the United States of America, to him in hand paid by the said party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, has
214 granted, bargained, sold, released, remised and conveyed, and by these presents do grant, bargain, sell, release, remise and convey unto the said party of the second part, and to his heirs and assigns forever, all that certain piece or parcel of land lying and situate in the city and county of San Francisco, bounded and described as follows, to wit:

Commencing at the southwest corner of section twenty-five, in township two south, range sixty west; running thence northerly along the westerly line of said section to the centre of the ravine which runs easterly from lake Merced; thence easterly following the course of said ravine forty chains more or less; thence south to the southerly line of said section; thence west to the west boundary line of said section, and the point of commencement; together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion

and reversions, remainder and remainders, rents, issues and profits thereof: to have and to hold all and singular the above mentioned and described premises, together with the appurtenances,
215 unto the said party of the second part, his heirs and assigns forever.

And the party of the first part do covenant, that he will warrant and defend his right, title, and interest in and to the above premises, against the acts and deeds of the said party of the first part, and all persons claiming by, from, under, or through the said party of the first part, unto the said party of the second part, his heirs and assigns forever.

In witness whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

JOHN MIDDLETON. [SEAL.]

Signed and sealed in presence of—
WM. WILLSON LAWTON.
The word corner substituted, and quarter erased, before signing.
WM. WILLSON LAWTON.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

On this twenty-sixth day of May, A. D. eighteen hundred and sixty, before me, Wm. Willson Lawton, a notary public in
216 and for said city and county, personally appeared John Middleton, known to me to be the person described in and who executed the within instrument, and acknowledged to me that he executed the same freely and voluntarily for the uses and purposes therein mentioned.

In witness whereof, I have hereunto set my hand officially, and affixed my notarial seal, the day and year in this certificate above written.

[SEAL.] WM. WILLSON LAWTON,
Notary Public, in and for the city and county of San Francisco.

A true copy of an original, recorded at request of D. Green, June 26, 1860, at fifty-four min. past one p. m.

G. W. BECKH,
County Recorder.

I, Thomas Young, county recorder in and for the city and county of San Francisco, do hereby certify that the foregoing is a full, true and correct copy of an original record now in my office, as will appear by reference to liber 108 of deeds, page 169.

[SEAL.] Witness my hand and official seal, this tenth day of January, A. D. 1862.

T. YOUNG, *County Recorder,*
217 Pr. T. R. MORGAN, *Deputy.*

Endorsed: Filed Febr'y 19, 1862.

W. H. CHEVERS, *Clerk.*

Lease from Brown to Anderson.

Charles Brown *et al.* to James Anderson *et al.*

This indenture, made the twentieth day of January, in the year one thousand eight hundred and fifty-three, between Rosalie Brown, Charles Brown, her husband, Alonzo de Haro by his guardian, Charles Brown, and Ramon de Zaldo, administrator of the estate of Francisco de Haro, deceased, of the county of San Francisco, of the first part, and James Anderson, C. L. White, Thos. J. Jones, of the same county, of the second part, witnesseth, that the said party of the first part have letten, and by these presents do grant, demise, and to farm let unto the said party of the second part, all that certain tract or parcel of land situated, lying, and being in said county, being part
218 of the rancho known as the Haro rancho, and lying upon the shore of Lake Merced, with the buildings standing theron, known as the lake house, being the whole lot upon which said buildings stand, as the same stands now enclosed, with the appurtenances for the term of five years from the date hereof, at the monthly rent or sum of two hundred and fifty dollars, payable monthly in advance to the said Charles Brown, for the support and maintenance of his said ward. And it is agreed, that if any rent be due and unpaid, or if default shall be made in any of the covenants herein contained, then it shall be lawful for the said Charles Brown to re-enter the said premises, and to remove all persons therefrom, and the said party of the second part, doth covenant to pay monthly in advance to the said Charles Brown the rent hereinbefore mentioned, and at the expiration of the said term of five years to quit and surrender the premises to the said Charles Brown, in as good state and condition as reasonable use and wear thereof will permit, damages by the elements excepted, and also to leave upon the premises all improvements made by them, the said parties of the second part, without further compensa-
219 tion. And the sad party of the first covenants that said party of the second part, on paying the said rent and performing the covenants aforesaid, shall and may peaceably and quietly have, hold and enjoy the said demised premises for the term aforesaid.

It is further covenanted by the said Charles Brown, that he will not erect or keep any other house of entertainment upon the point below the lake house during the said term.

For assg't James Anderson, see following instrument.

Witness our hands and seals, the day and year first above written.

In presence of—

RAMON DE ZALDO, [SEAL.]
Adm'r.
CHARLES BROWN. [SEAL.]
J. ANDERSON. [SEAL.]
C. L. WHITE. [SEAL.]
THOS. J. JONES. [SEAL.]
By C. L. WHITE. [SEAL.]
His attorney in fact.

In presence of—the covenant in the margin inserted before execution—

J. HAWES DAVIS.
JAMES PRATT.

STATE OF CALIFORNIA,
County of San Francisco :

On this twentieth day of January, A. D. 1853, personally appeared before me, a notary public in and for said county, Ramon de Zaldo, Charles Brown, James Anderson, and C. L. White, each of whom acknowledge to me that he executed the foregoing conveyance
220 freely and voluntarily for the uses and purposes therein mentioned, and each of whom are personally described in and who executed the foregoing instrument; and the said Charles Brown so acknowledged to me that he so executed said instrument, as the lawful guardian of Alonzo de Haro ; and Charles L. White so acknowledged, and so executed the same, not only for himself, but also as the attorney in fact of Thomas J. Jones.

[SEAL.] Witness my hand and official seal this 20th day of January, A. D. 1853.

JAMES PRATT,
Notary Public.

A true copy of an original recorded at request of A. Smith, May 23d, 1853, at 2 p. m.

THOS. B. RUSSUM,
County Recorder.

I, G. W. Beckh, county recorder in and for the city of San Francisco, do hereby certify that the foregoing is a full, true, and correct copy of an original record, as will appear by reference to liber 3, of leases, now in my office, at page 158.

221 [SEAL.] Witness my hand and offical seal this nineteenth day of September, A. D. 1860.i

G. W. BECKH,
County Recorder.
Pr. T. R. MORGAN,
Deputy.

Endorsed: Filed Feb'ry 19, 1862.

W. H. CHEVERS, *Clerk.*

Pre-emption claim of J. G. Denniston.

J. G. Denniston—Pre-emption.

I, James G. Denniston, of the city of San Francisco, in the State of California, head of a family, have, on the 8th day of August, 1853, settled and improved a tract of land in the county of San Francisco located as follows: Commencing from the southeast corner of lake

house, due south 40 chains; thence running due south 80 chains; thence due west 40 chains; thence due north 80 chains; thence due east 40 chains, to the place of beginning, containing 320 acres of land, and of which said claim I have settled and improved the northern half, containing 160 acres, which land has not yet been
222 offered at public sale, and thus rendered subject to private entry, and I do declare my intention to claim the said tract of land as a pre-emption right under the provisions of the act of the 4th of September, 1841.

Given under my hand this 10 day of August, 1853.

JAMES G. DENNISTON.

Signed in the presence of—
WM. HART.

STATE OF CALIFORNIA,
County of San Francisco, ss:

I, James Denniston, claiming the right of pre-emption under the provisions of the act of Congress entitled An act to appropriate the proceeds of the sale of the public lands and to grant pre-emption rights, approved September 4, 1861, to the northern half of the following described tract of land, situated in the county of San Francisco, and commencing from the southeast corner of the lake house, due south 40 chains; thence running due south 80 chains; thence due west 40 chains; thence due north 80 chains; thence due east 40 40 chains, to the place of commencing, containing 160 acres of
223 land, do solemnly swear that I have never had the benefit of any right of pre-emption under this act; that I am not the owner of three hundred and twenty acres of land in any State or Territory of the United States; nor have I settled upon and improved said land to sell the same on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract in any way or manner with any person or persons whatsoever by which the title which I may acquire from the government of the United States should inure, in whole or in part, to the benefit of any person except myself.

JAMES G. DENNISTON.

Subscribed and sworn to before me this 10 day of August, 1863.

W. HART,
Notary Public, San Francisco.

STATE OF CALIFORNIA,
County of San Francisco, ss:

On this tenth day of August, A. D. one thousand eight hundred and fifty-three, before me, William Hart, a notary public in
224 and for said county, personally appeared James Denniston, to me known to be the individual described in and who executed the annexed instrument, and acknowledged that he executed the same freely and voluntarily for the uses and purposes therein mentioned.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.
[SEAL.]

W. HART,
Notary Public, San Francisco.

A true copy of the original, recorded at the request of J. G. Denniston Aug. 11, 1853, at 11½ a. m.

THO'S B. RUSSUM,
County Recorder,
Pr. JOHN A. CLARK, *Deputy.*

I, G. W. Beckh, county recorder in and for the city and county of San Francisco, do hereby certify that the foregoing is a full, true, and correct copy of an original record now in my office, as will appear by reference to liber "B" of Miscellaneous, at page 684.

225 Witness my hand and official seal this twenty-seventh day of November, A. D. 1860.

[SEAL.]

G. W. BECKH,
County Recorder.

Endorsed: Filed Feb'ry 19, 1862.

W. H. CHEVERS, *Clerk.*

Amended complaint in case of Denniston et al. vs. Brown et al.

In the district court of the 12th judicial district, city and county of San Francisco.

JAMES G. DENNISON AND JOSEFA DE HARO DENNISON, his wife,
vs.
CHARLES BROWN AND ROSALIA DE HARO BROWN, his wife; J. C. Palmer, trustee of Rachel Middleton; David Scannell, sheriff; Natividad de Haro Tissot and Paul Tissot, her husband; Charlotte de Haro Dennison,———Dennison, her husband; Candalaria de Haro Pruzo and John Pruzo, her husband, Prudentio de Haro, and Alonzo de Haro.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

226 The complaint of the above-named plaintiffs respectfully shows to this court, that the said Josefa de Haro Dennison, wife of the said James G. Dennison, was, on the third day of April, in the year one thousand eight hundred and fifty-five, and has been ever since, and is now, the owner of one undivided seventh part of all that tract of land known as the de Haro ranch, and bounded as follows, to wit: North by the Noe ranch, so called; east by the San Bruno mountains; south by the Sanchez ranch, so called; and west by the Pacific ocean, as tenant in common with defendants, Natividad, Rosalia, Carlotta, Candalaria, Prudentia, and Alonzo; that no partition of said de Haro ranch has been made among said tenants in common, but the same remains entire and undivided; and the plaintiffs allege

that Francisco de Haro, late of San Francisco, deceased, was in his lifetimethe owner in fee, and in possession of the said described premises, and that the said Josefa de Haro Dennison is one of his daughters and heirs, and that on the death of the said Francisco de Haro, which occurred in the year 1848, she became the owner
227 by descent of one undivided seventh part of said land as tenant in common with the defendants last above named, who are the co-heirs and entitled with her by descent from their father, the said Francisco de Haro, deceased.

That the defendants, Charles Brown and Rosalia his wife, on said third day of April, A. D. 1855, by their deed of mortgage of that date, executed and delivered by them illegally, undertook to convey by metes and bounds to one Michael Reese a certain portion of said ranch, situated in the city and county of San Francisco, called the Lake House property, containing upwards of six hundred and forty acres, and more particularly described as follows, to wit: Commencing at a point 12 chains due north from *from* the southeastern corner of said property; thence due north 40 chains; thence due west 40 chains; thence due north 20 chains; thence due west 80 chains; thence due north 20 chains; thence due west 20 chains; thence due south 40 chains; thence due east 20 chains; thence due south 20 chains; thence due east 40 chains; thence due south 20 chains; thence due east 80 chains, to the place of beginning, or however otherwise said Lake House property may be bounded and described.

228 That said deed was duly acknowledged on the sixth day of April, A. D. 1855, and recorded in the county recorder's office of the county of San Francisco on the 7th day of said April, in book 26 of mortgages, page 126, a copy of which said mortgage deed is hereunto annexed and made part of this complaint.

That on the 13th day of said April the said Michael Reese assigned the said mortgage to the defendant, Joseph C. Palmer, to hold the same in trust for the sole and separate use and benefit of Rachel Middleton, wife of John Middleton.

That on the day of the said Joseph C. Palmer, trustee as aforesaid, commenced his action in the district court of the 12th judicial district to foreclose said mortgage against the said Charles Brown and Rosalia, his wife, and others, and on the 15th day of February, 1857, obtained in said court a decree of foreclosure and order of sale of the premises described in said mortgage, by virtue of which decree, duly attested the 25th day of May, A. D. 1857, the defendant Scannell, on the26th day of May in said year 1857, advertised said property to be sold by him to the highest bidder for cash on Monday,
229 the 15th day of June, A. D. 1857, at 12 o'clock noon, in front of the court-house doors, in the city and county of San Francisco. And the plaintiffs say that the said Josefa de Haro Dennison is the owner of one undivided seventh part of said premises, so mortgaged as aforesaid, and was the owner thereof on the 3d day of April, A. D. 1855, and has ever since been the owner of said one undivided seventh part; and that said mortgage, so made as aforesaid,

was made in fraud of her rights as such owner, and is absolutely void, and ought to be delivered up and cancelled; and the judgment thereon of foreclosure is equally null and void, and ought not to be enforced; and that said decree of foreclosure and order of sale should be vacated and set aside. And the plaintiffs say that if the said Scannell is not restrained by the order and instruction of this court from selling and conveying said property as he threatens and is about to do, as is above set forth, great and irreparable injury would be produced to these plaintiffs, and such sale and conveyance would be in violation of the rights of the said Josefa, as the owner of one undivided seventh part of said property, as above set forth.

230 And the plaintiffs further show that the said mortgage and the said judgment are a cloud upon the title to the said premises, and that the said threatened sale, and the deed to be executed by the sheriff in pursuance thereof, will still further cloud the said title of the said plaintiffs in and to the said premises. And the plaintiffs say that the said defendants, Natividad de Haro Tissot and Paul Tissot, her husband, Carlotta de Haro Dennison, ———— Dennison, husband of said Carlotta, Candelaria de Haro Pruzo, and John Pruzo, her husband, Prudentio de Haro, and Alonzo de Haro, are united in interest with the plaintiffs, but they are made defendants herein for the reason that their consent cannot be obtained to be joined as plaintiffs herein.

And the plaintiffs say that the value of their interest in the property above described exceeds the sum of two hundred dollars. Wherefore the plaintiffs pray that the said mortgage deed, from the said Charles Brown and Rosalia, his wife, to said Michael Reese, may be adjudged to be absolutely void, and to be delivered up to be cancelled, and the judgment obtained thereon in this

231 court be declared null and void, and be vacated and set aside; and that in the mean time the defendants, Palmer and Scannell, may be restrained by the order and injunction of this court from selling and conveying said Lake House property, and also that she may be restrained, by the like order and injunction, from any and all the proceedings upon said judgment and decree of foreclosure, and that plaintiffs may have such other and further relief in the premises as the nature of the circumstances may require, and to this court may seem meet.

FABENS & TRACY,
Att'ys for Pl'ffs.

STATE OF CALIFORNIA,
City and County of San Francisco:

W. O. Andrews, being duly sworn on behalf of the plaintiffs, says that he is the attorney in fact of the plaintiffs, and as such is better acquainted with the truth of the matters set forth in the foregoing complaint than said plaintiffs; that he has heard read the foregoing complaint and knows the contents thereof, and that the same is

232 true of his own knowledge, except as to the matters therein stated upon information and belief, and as to those matters he believes the same to be true.

W. O. ANDREWS.

Subscribed and sworn this 17th day of October, 1857, before me.
WM. H. CULVER,
Justice of the Peace.

Charles Brown to Michael Reese.

This indenture, made the third day of April, in the year of our Lord one thousand eight hundred and fifty-five, between Charles Brown, of the city and county of San Francisco, State of California, of the first part, and Michael Reese, of said city, county, and State, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of twenty thousand dollars to him in hand paid by the said party of the second part, does grant, bargain, sell and confirm unto to the said party of the second part, and to his heirs and assigns forever, all the right, title, and interest in law or equity of the party of the first part in and unto the
233 Lake House property, land and premises, situated in said county of San Francisco.

The party of the first part hereby intending to convey all the interest, property, and estate conveyed by deed of this date by the party of the second part to the party of the first, and for a more particular description of the property and premises hereby intended to be conveyed reference is had to said deed. Together with all the right, title, interest of all the adult heirs of the late Francisco de Haro, deceased, in and unto the premises above described, which said interest of said heirs the party of the first part for a good consideration hereby undertakes to have conveyed to himself within six months from the date hereof, in order that by operation of law the same interest shall become security to the party of the second part; and it is understood that the party of the first part reserves to himself the right to sell and convey any portion of the Lake House property and premises to any person or persons, provided he shall thereupon pay to the party of the second part such sum upon the note described below as will bear the same proportion to the amount of the note as the proportion of the property sold shall bear in value
234 to the whole value of the Lake House estate; together with all and singular the tenements, hereditaments, and appurtenances thereto belonging, or in anywise appertaining. This conveyance intended as a mortgage to secure the payment of the sum of twenty thousand dollars according to the tenor of the following note given by the party of the first part to the party of the second part, to wit:

SAN FRANCISCO, *April 3d*, 1855.

Five years after date, value received, I promise to pay Michael Reese, or order, twenty thousand dollars, with interest at the rate of ten pr. cent. pr. annum, payable semi-annually, with the understanding, however, that if by reason of any lien or incumbrance upon the premises for which this note is given, by virtue of my claim or right to the same in John Middleton, J. Anderson, C. L. White, Thomas J. Jones, or Ferdinand Vassault, or their creditors, or all, or either of them, I shall thereby be subjected to loss or damage in any amount

of money prior to the expiration of said five years, such amount shall be deducted from said twenty thousand dollars, and these presents shall be void if such payment be made. But in case default
235 be made in payment of the principal or interest as above provided, then the party of the second part, his executors, administrators, and assigns, are hereby empowered to sell the premises above described, with all and every of the appurtenances, or any part thereof, in the manner prescribed by law; and out of the money arising from such sale to retain the said principal and interest, together with the costs and charges of making such sale, and the overplus, if any there be, shall be paid by the party making such sale, on demand to the party of the first part, his heirs and assigns.

In witness whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

CHAS. BROWN. [SEAL.]

Signed, sealed, and delivered in the presence of—
R. F. PERKINS.

Know all men by these presents that I, Rosalia Brown, wife of Charles Brown, named in the foregoing mortgage, and with which I am fully contented, do hereby join my husband in said conveyance, hereby meaning to convey in mortgage all my interest in the property described in said mortgage.

ROSALIA HARO. [SEAL.]

236 Signed, sealed, and delivered in presence of—
CHARLES HALSEY.

STATE OF CALIFORNIA,
County of San Francisco, ss:

On the sixth day of April, A. D. one thousand eight hundred and fifty-five, before me, a notary public in and for said county, personally appeared Charles Brown and Rosalia Brown, his wife, to me personally known to me to be the individuals described in and who executed the foregoing instrument, and acknowledged that they executed the same freely and voluntarily for the uses aud purposes therein mentioned; and the said Rosalia Brown, after first being by me made acquainted with the contents of said instrument, acknowledged to me, on examination apart from and without the hearing of her said husband, that she executed the same freely and voluntarily without fear or compulsion or undue influence of her said husband, and that she does not wish to retract the execution of the same.

In witness whereof, I have hereunto set my hand and affixed
237 my official seal in the county aforesaid the day and year first above written.

CHARLES HALSEY, [SEAL.]
Notary Public.

We have this day rec'd a copy of the within amended complaint, (less the copy of mortgage attached, which we waive,) and it is here-

by stipulated that the same may be filed as the amended complaint of the plaintiffs in this cause.

F. M. & H. H. HAIGHT,
Attor'ys for Pl'ffs

SAN FRANCISCO, *Oct.* 21, 1857.

Filed Oct. 22d, 1851.

W. M. DUER, *Clerk.*
W. M. R. SATTERLEE, *D. C.*

I hereby certify the foregoing to be a true copy of the amended complaint on file in my office in the above-entitled cause.

[SEAL.] Attest my hand and seal of said court, January 10, 1862.
W. BARTLETT, *Clerk,*
P'r W. M. R. SATTERLEE, *D. C.*

Endorsed: Filed Feb'ry 19, 1862.
W. H. CHEVERS, *Clerk.*

238 *Answer of J. C. Palmer in case of Denniston et al.* vs. *Brown et al.*

In the district court of the 12th judical district.

JAMES G. DENNISON and JOSEFA DE HARO DENNISON, his wife,
vs.
CHARLES BROWN, ROSALIA DE HARO BROWN, J. C. PALMER, trustee of RACHEL MIDDLETON and DAVID SCANNELL, sheriff.

Joseph C. Palmer, the above defendant, impleaded with Charles Brown and others, for answer to the complaint of the above-named plaintiffs, says: That he has no knowledge, information, or belief, whether the said Josefa, wife of the said James G. Dennison, is the owner of one-seventh part of the de Haro rancho, described in said complaint, as tenant in common with the defendants therein named, and therefore denies the same; and this defendant has no knowledge or information as to my partition of said ranch, or of the boundaries of the same; and this defendant, upon information and belief, denies
239 that the premises mortgaged to said Reese are within the boundaries of the ranch called de Haro ranch, the same never having been surveyed by the United States, so far as this defendant is informed.

This defendant further saith, that Michael Reese, being possessed and seized in fee, or claiming to be so, and holding adversely to any and all other persons, on or about the third day of April, 1855, for the consideration of twenty thousand dollars, sold and conveyed the premises in the complaint described, as having been mortgaged to him by the said Charles Brown to the said Charles Brown, and

thereupon the said Charles Brown and Rosalia, his wife, to secure the consideration money on said sale, executed and delivered to the said Michael Reese the mortgage in the complaint mentioned, to secure a note of twenty thousand dollars, being the purchase money agreed to be paid for said premises. On said premises had been erected, prior to said sale and purchase by said Brown, by the grantors of said Michael Reese, large and valuable improvements, at a cost of more than twenty-five thousand dollars, including fences on said land. This defendant admits the assignment to him, and default being made in the payment of the moneys secured by said mortgage, he
240 caused same to be foreclosed, and a decree of foreclosure and sale regularly entered. That said premises have been for more than three years in the actual possession of said Michael Reese and his grantors, and those claiming under him; and this defendant insists that the plaintiffs have no equity whatever to interfere with said sale under said mortgage.

And this defendant further says he denies that the said Josefa de Haro Dennison is the owner of an undivided seventh part of said premises so mortgaged, or was such real owner on the third day of April, 1855; and this defendant denies that said mortgage was made in fraud of her rights as such owner, and that the same is void and ought to be delivered up to be cancelled.

This defendant, further answering, says that a judgment of foreclosure having been duly rendered, he is advised and insists that the same is not to be set aside at the instance of a person nowise connected with it.

And this defendant further answers and insists, if the allegations in the complaint are true, a sale under said decree can in no
241 way affect any rights of the plaintiff, but so far as the right, title, or interest of said Brown and wife are concerned in said mortgaged premises, the sale would pass the same, but could in no manner cloud or affect the right, title, and interest of the plaintiffs, if they have any rights or interest in the land.

This prays to be hence dismissed, with costs to be adjudged against the plaintiffs.

F. M. & H. H. HAIGHT,
Att'y for Joseph C. Palmer.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

Joseph C. Palmer, being sworn, says that he has heard read the foregoing answer, and knows the contents thereof, and that the same are true of his own knowledge, except as to matters stated therein on information or belief, and as to those matters he believes it to be true.

JOSEPH C. PALMER.

Sworn and subscribed to before me this 18 day of June, A. D. 1857.

OTMAR CALER, *D'y C'k.*

Endorsed: Filed June 13, 1857.

OTMAR CALER, *Dep. C'k.*

242 I hereby certify the foregoing to be a true copy of the original answer on file in my office in the above entitled cause.
Attest my hand and seal of said court, January 10, 1862.
[SEAL.]
WASHINGTON BARTLETT, *Clerk*,
P'r WM. R. SATTERLEE, *D. C.*

Endorsed : Filed Feb'ry 19, 1862.
W. H. CHEVERS, *Clerk*,

REGISTER OF ENTRIES, LAND OFFICE, SAN FRANCISCO.

No.	Date.	Name of purchaser.	Tract—Part of section.	Sec.	T'wn.	Range	How pur'd.	Rate.	Payments, how made.				Tract book		Date pat't.	Amount of acres.
									Cash.	M. B. L. warrant.	Date.		Vol.	Page.		
	1858.									No.						
55	Jan'y 2	Michael Comonford	Fractions 2 and 3	23	3 S.	6 W.	.....	$1 25	.....	76.012	19 Nov., 1857.	3 Mar., 1855.	.....	.....	.....	154.12
			S. W. ¼ of S. E. ¼, and S. E. ¼ of S. W. ¼	14	"	"	.....	"	.....	"	"	" "	.....	.....	.....	.....
56	"	Rob't Shelden Thornton.	E. ½ of N. W. ¼, and W. ½ of N. E. ¼	14	3 S.	6 W.	.....	1 25	.....	64.141	5 May, 1857.	" "	.....	.....	.....	160.00
69	Jan'y 16	Charles Clark	Fracs. 2 and 3, and N. W. ¼ of S. W. ¼, and S. W. ¼ of N. W. ¼.	7	3 S.	5 W.	.....	1 25	$34 62	73.693	5 Nov., 1857.	" "	.....	.....	.....	187.69
70	"	John Wesley Locker...	Fracs. 3 and 4, and N. E. ¼ of N. W. ¼, and S. W. ¼ of N. W. ¼	13	3 S.	6 W.	.....	1 25	2 99	72.914	25 Sep., 1857.	" "	.....	.....	.....	162.39
81	"	James Wood	E. ½ of S. W. ¼, and W. ½ of S. E. ¼	11	3 S.	6 W.	.....	1 25	.....	61.826	23 Ap'l, 1857.	" "	.....	.....	.....	160.00
93	Feb. 11	Israel Graham Knowles.	N. E. ¼	1	3 S.	6 W.	.....	1 25	.....	55.479	10 Feb., 1857.	" "	.....	.....	.....	153.13

U. S. LAND OFFICE, *San Francisco, Californic.*

I, George B. Tingley, do hereby certify that the foregoing is a full, true, and correct copy of the record in this office of payment made by cash and military bounty land warrants, for pre-emption claims of Michael Comoford, Robert Shelden Thornton, Charles Clark, John Wesley Locker, James Wood, and Israel Graham Knowles.

Given under my hand this 5th day of February, A. D. 1862, there being no seal used in this office.

GEO. B. TINGLEY, *Register.*

Endorsed: Filed February 19, 1862.

W. H. CHEVERS, *Clerk.*

(Here follows map, page 244.)

245 *Affidavit of D. Mahoney.*

In the district court of the United States for the northern district of California.

JOSEFA DE HARO *et als.*, pl'ffs, *vs.* THE UNITED STATES, def't. } For the rancho Laguna de la Merced. Affidavit.

CITY AND COUNTY OF SAN FRANCISCO, *sct.:*

David Mahoney, being sworn, says that he is the owner in fee of the above-named rancho Laguna de la Merced; that the same was conveyed to him by the heirs of Francisco de Haro; that the survey of said rancho has been returned into this court, and is now pending before said court for adjudication.

DAVID MAHONEY.

Subscribed and sworn before me this sixth day of February, 1862.

B. DOWLING,
[SEAL.] *Notary Public.*

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

246 *Objections of David Mahoney to the survey.*

In the district court of the United States for the northern district of California.

JOSEFA DE HARO *et al.* *vs.* THE UNITED STATES. } For the rancho Laguna de la Merced.

David Mahoney, the owner of this rancho, objects to the survey made and filed in this cause on the following grounds, to wit:

1st. That said survey does not embrace all the land of the said rancho Laguna de la Merced. That said rancho is bounded on the north by the Laguna Puerca; on the west by the Pacific ocean; on the south by the rancho San Pedro and Buriburi; and on the east by the ranchos Cañada de Guadalupe Visitacion y Rodeo Viejo and San Miguel, and that said survey should include all the lands within said boundaries.

2d. That said survey does not correspond with the decree of this court, the diseño or calls of the grant.

3d. That said survey does not embrace all the land claimed, occupied, and cultivated by the original grantee and the ancestors
247 of the claimants, as established by the testimony.

McDOUGAL & SHARP,
Att'ys for D. Mahoney.

It is stipulated that the above objections may be filed as of the day of the return of the survey into this court.

San Francisco, March 26th, 1862.

WM. H. SHARP,
U. S. Att'y.

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

Dep. of Leander Ransom.

United States district court, northern district of California.

THE UNITED STATES
vs.
JOSEFA DE HARO *et als.*

SAN FRANCISCO, 10 *January*, 1862.

On this day, before me, Henry C. Hyde, a commissioner of the United States, for the northern district of California, duly authorized to administer oaths, &c., &c., came Leander Ransom, a wit-
248 ness produced on behalf of the United States in case No. 330, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 102 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present: W. H. Sharp, U. S. dist. att'y, by J. B. Crockett and Tully R. Wise; and McDougal and Sharp by Walter H. Tompkins.

Questions by the United States.

1. What is your name, age, and place of residence?

Ans. My name is Leander Ransom; I live in San Francisco; my age is fifty-five years.

Q. 2. Examine the map now shown to you and marked "Exhibit Ransom A., No. 1," and state what it is and by whom it was made.

Ans. The map is one I have recently made; the exterior boundary lines of this map are taken from one that I made in 1853, which is now in the surveyor general's office, and a copy of which is
249 filed in this case. The exterior boundaries are those that were claimed in 1853, when I made the survey as the tract within which the rancho of Laguna de los Merced was situated.

The red lines on the map represent the boundaries of the half league selected as the Laguna de la Merced ranch, in 1853, when I made the survey, and these red lines represent that survey. The tract bounded by yellow lines represents the last official survey made, and is the one now in court. The tract shaded drab was sectionized in 1854, under instructions from the United States surveyor general. The tract shaded green is a tract I surveyed at the request of Charles Brown, at the time I surveyed the ranch in 1853.

The irregular lines represented by a small red line occupying nearly

the position of the green line, I put down from the courses and distances in two or three deeds or mortgages.

Q. 3. Examine the papers now shown you, marked, respectively, "Exhibits Ransom A., No. 2," "Ransom A., No. 3," "Ransom A., No. 4," and "Ransom A., No. 5," to be annexed to your
250 deposition, and state whether or not the tract represented on said map by the small irregular red lines is the same tract described in said "exhibits."

Ans. I have said on the map that the position of this tract is approximate. The position at the bridge is correct. The descriptions in the deeds being defective, not two agreeing precisely, I took the description that appeared to be the nearest correct, as the courses and distances do not close within some fourteen chains.

My impression is, from reading the deeds, that they were intended to embrace the same tract embraced in the green lines, or nearly so.

NOTE.—Mr. Tompkins objects to this evidence, because he says the deeds are the best evidence of their contents.

Q. 4. State whether or not you were employed in 1854 in the surveyor general's office; and if so, in what capacity?

Ans. I was chief clerk in the surveyor general's office in 1854.

Q. 5. Do you know how the lands represented by the drab
251 shading in "Exhibit Ransom A., No. 1," came to be surveyed and sectionized in that year under the authority of the surveyor general?

Ans. In the first place it was supposed to be public land, and at the request of persons interested, or settlers on the land, the surveyor general issued instructions to R. B. Hays to have it sectionized.

Q. 6. Were they so surveyed and sectionized before or after your survey of the rancho Laguna de la Merced in 1853; and if after, how long after?

Ans. They were surveyed and sectionized about one year after my survey of the rancho Laguna de la Merced.

NOTE.—Counsel for claimants objected to all the evidence of the survey of the rancho of the Laguna de la Merced; and all the evidence in relation to the survey of the Charles Brown tract, and the acts of Charles Brown, James Dennison; and all the evidence in relation to the survey within the exterior boundaries of this rancho, and sectionizing the same as public land, on the ground of irrelevancy and im-
252 materiality; that all of such surveys were unauthorized by law.

Cross-examination by Mr. Tompkins on behalf of the claimants and intervenors.

Q. 1. In running lines of the exterior boundaries of the rancho, did you not, on the southern boundary, suppose that you were running the northern boundary of the Buriburi, so far as it extends?

Ans. That was my impression at the time.

Q. 2. Have you examined the calls in the grant of the rancho Laguna de la Merced, and also the calls in the grant of the Buriburi rancho?

Ans. I examined them several years ago.

Q. 3. At the time of your examination of these grants were you not of the opinion that the southern exterior boundary of the rancho Laguna de la Merced, and the northern boundary of the Buriburi rancho, so far as the Buriburi rancho extends—that is to the San Pedro rancho—is one common line?

253 Ans. I suppose the land north of the north boundary of the Buriburi line, as there marked on the map, and included in the lines colored brown, was a tract from which the Laguna de la Merced ranch, or rancho, could be selected and surveyed.

Last question repeated.

Ans. I do not know that I could say yes or no to it, for the reason that the tract mentioned contains something like a league and a third, and the Laguna de la Merced rancho calls for a half league only, as I understand it.

Q. 4. How did you get that understanding? From what source of information?

Ans. I obtained it from the papers in the case presented before the land commission.

Q. 5. Name the paper.

Ans. I do not know that I could specify the particular one, but probably the papers in the case. It is now a long while since

254 I examined them; several years.

Q. 6. You say the brown lines delineated on the map, annexed to your deposition, represent the exterior boundaries of the rancho Laguna de la Merced; you say that you intended to run the southern exterior boundary of this rancho as a line in common with the northern boundary line of the Buriburi rancho, and you say that you have examined the calls in the grants of these two ranchos, and you say you cannot swear whether or not, in your judgment, from that examination, the southern exterior boundary of the rancho Laguna de la Merced is a line in common with the northern boundary of the Buriburi rancho?

Ans. I did not say it was the exterior boundary of the rancho; I said it was the exterior boundary of the tract from which they claimed. The line between the southern exterior limits and the Buriburi rancho, and the eastern and northern boundary, I obtained from José Sanchez and Charles Brown; they pointed out the different points.

255 Q. 7. You say now that you did not run the lines delineated on the map in brown as the exterior boundaries of the rancho Laguna de la Merced?

Ans. I say that I run them as the exterior boundaries of a tract of land not occupied by any other ranch, and from which the Laguna de la Merced ranch could be selected.

Q. 8. Did you or did you not run the lines delineated on the map in brown as the exterior boundary of the rancho Laguna de la Merced?

Ans. I did not run all of them for that pupose, for the reason that the whole tract contained a league and a third, and the ranch Laguna de la Merced, as I understood it, contained but a half a league.

Q. 9. Will you point out on this map the portions delineated in

brown that you run as the exterior boundaries of the rancho Laguna de la Merced?

Ans. I did not run any of them with the positive knowledge or intention that they would be selected by the parties in interest
256 as the boundaries of the ranch, not knowing at the time from what portion the half league would be selected.

Q. 10. Do you now say that no part of these lines delineated in brown were run by you as the exterior boundaries, or part of the same, of the rancho Laguna de la Merced?

Ans. I have answered that above.

Q. 11. Is your recollection clearer at this time about the facts of that survey than it was when you were examined before in this case?

Ans. I do not know that they are, except that I have been examining maps and field-notes of the survey recently.

Q. 12. If you then stated that you run the lines delineated on this map in brown as the exterior boundaries of the rancho Laguna de la Merced, was it or was it not probably correct?

Ans. I do not know that I said so; if I did, it was my intention to say, or meant to be understood to say, that I run the boundaries
257 of a tract including the rancho Laguna de la Merced, or from which it could be selected.

Q. 13. Who pointed out these lines to you?

Ans. The northern boundary of the Buriburi, and the western line of the Visitation and San Miguel ranchos, were pointed out to me by José de la Cruz Sanchez; the northern boundary and the Laguna de la Merced tract by Charles Brown.

Q. 14. Then on the south you were pointed out the northern boundary of the Buriburi, and not the southern exterior boundary of the Laguna de la Merced?

Ans. As I said before, the tract north of the Buriburi line, included in the brown lines on the map, I supposed to be the tract from which the Laguna de la Merced ranch would be selected.

Q. 15. Your object in making the survey of the southern line was to find the Buriburi line, was it not?

Ans. I had instructions from the surveyor general to survey the rancho Laguna de la Merced. My first object in commencing
258 the survey was to ascertain the boundaries, as near as might be, of the Buriburi on its northern line, the Visitation and San Miguel on their western lines. I made such a survey delineating these boundaries as I then understood them; made a map of the survey, and gave it to the administrator of the estate of De Haro, for him and the heirs to select the location within these boundaries of the Laguna de la Merced rancho. Some two or three weeks after they delivered me the map with the half league marked on the map as their selection. I then run the lines and stuck the stakes as designated.

NOTE.—Counsel for the claimant objects to the answer as not responsive to his question.

Q. 16. You say they gave you the map. Who do you mean by they?

Ans. Ramon de Zaldo, who was represented as the administrator and agent of the heirs.

Q. 17. Did you ever have a word of conversation with any of these *lines*, or did you ever hear them say anything concerning the location of this map?

259 Ans. I never heard them say anything against it, until something like a year after the survey was made. The only objection made then was that they claimed the whole tract included in the brown lines. At the time I made the survey of the half league, and set the stakes, Mr. Dennison, as I now believe, took my men, my chainmen, and myself, from the mission to the location, and remained with me while I was setting the stakes.

Last question repeated.

Ans. My conversations about the location and selection were with the administrator. Charles Brown and James Dennison married two of the heirs, daughters; they were with me several times while I was making the survey, and from their acquiescence and assistance, I supposed they were satisfied with the survey.

Q. 17 repeated.

Ans. I never had any conversation with the children of de Haro, or any of them, either pro or con.

Q. 18. Did you examine at that time the calls of the grants of the several ranchos adjoining the Laguna de la Merced?

260 Ans. I presume I did; they were in the office. I think I examined the Buriburi, Visitation, and San Miguel.

Q. 19. If the San Pedro grant calls for one of its boundaries the rancho Laguna de la Merced, would you as a surveyor, in surveying the two ranchos, the San Pedro and the Laguna de la Merced, in running the line of the San Pedro, adjoining the rancho Laguna de la Merced, consider that line an exterior boundary of the rancho Laguna de la Merced?

Ans. Large tracts of country in many instances under the Mexican government took the name of the ranch or rancho, in which they were situated or from which they were to be selected; and if the San Pedor ranch calls for the Laguna de la Merced as one of its boundaries, I should endeavor to ascertain the boundary of the tract so called.

LEANDER RANSOM.

Before me this 10th January, A. D. 1862.

HENRY C. HYDE,
U. S. Com'r.

261 It is hereby stipulated and agreed that the foregoing deposition of Leander Ransom be taken and considered as having been duly sworn to and subscribed before said Henry C. Hyde, U. S. com'r. 10th Jan'y, 1862.

McDOUGALL & SHARP,
Att'ys for Claimants.
Per W. H. TOMPKINS,
WM. H. SHARP, *U. S. Atty.*

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

(Exhibit "Ransom A., No. 1"—a map—follows.)

263 *Exhibit Ransom, No. 2.*

Charles Brown *et al.*, by David Scannell, sheriff, to F. M. Haight.

This indenture, made and executed this 11th day of May, A. D. 1858, by David Scannell, late sheriff of the county of San Francisco, in the State of California, witnesseth: That whereas, in and by a certain order of sale issued out of the district court of the 12th judicial district of the said State of California, in the action of Joseph C. Palmer, "trustee," against Charles Brown, Rosalia Brown, James Phelan, Michael Phelan, and George O. Whitney, duly attested the 25th day of May, A. D. 1857, and to me, as such sheriff, duly directed and delivered, I was commanded to sell the property hereinafter described, at public auction, according to law, and to apply the proceeds of such sale towards the satisfaction of the judgment in said action, amounting to the sum of ($24,000) twenty-four thousand dollars and the interest thereon, and costs of suit and expenses of sale,
264 as by the said order of sale, reference being thereunto had, more fully appears; and whereas, in pursuance of said order of sale, I did duly levy on, and on the 7th day of July, A. D. 1857, at 12 o'clock noon, at the court-house door in the city of San Francisco, in said State, I did duly sell the premises hereinafter described, at public auction, according to law, to F. M. Haight, who was the highest bidder therefor, for the sum of one thousand ($1,000) dollars, which was the whole price paid by him for the same, I having first given due notice of the said sale by publication of the said time and place thereof, and of the description of said property hereinafter set forth once in each week, for twenty-one days, in the San Francisco Daily Sun, a daily newspaper published in said county, and by posting copies of such notice and description daily for the same period in three public places of the said city of San Francisco; and whereas, after receiving from said purchaser the said sum of money so bid, as aforesaid, I gave to him, said purchaser, such certificate as is by law directed to be given, and a duplicate whereof was duly filed in the office of the recorder of said county; and whereas the time allowed by law for the redemption of said
265 property has expired without such redemption having been made: Now, therefore, I, the said David Scannell, late sheriff of the said county of San Francisco, in pursuance of the said order of sale, and of the statute in such case made and provided, and for and in consideration of the payment to me of the said sum of ($1,000 00) one thousand dollars, so bid as aforesaid, the receipt whereof is hereby acknowledged, have granted, bargained, sold, conveyed, and confirmed, and by these presents do grant, bargain, sell, convey, and confirm, unto the said F. M. Haight, his heirs and assigns, the real estate in said order of sale described as follows, to wit: All that certain tract or parcel of land known as the Lake House property, near the line which divides the city and county of San Francisco from the county of San Mateo, containing upwards of 640 acres, with the buildings and improvements thereon, commencing at the bridge,

northwest from said Lake House, and running thence south 66½° east, 3.76 chains; thence south 56¾° E., 7.53 chains; thence south 45° east, 4.74 chains; thence south 34° 40′ east, 3.59 chains; thence south 41½° east, 8.26 chains; thence south 39½° east, 5.43 chains; thence south 68½° east, 8.68 chains; thence south 85° east,
266 7 chains; thence south 49° 20′ east, 5.67 chains; thence south 32¼° east, 7.80 chains; thence south 28½° east, 10.50 chains; thence south 41½° east, 14 chains; thence south 56° 20′ east, 7.09 chains; thence south 12° west, 11.41 chains; thence north 57½° east, 6.28 chains; thence south 88½° east, 15.75 chains; thence north 70¾ east, 8.74 chains; thence south 79° east, 23.94 chains; thence south 36½° east, 4.18 chains; thence south 70° 20′ east, 13.88 chains; thence north 16¼° west, 61.38 chains; thence north 16¼° west, 61.38 chains; thence north 47¾° west, 50 links; thence north 88° 215′ west, 20.78 chains; thence north 69° west, 7.28 chains; thence north 63¼° west, 2.10 chains; thence north 83° west, 1.68 chains; thence south 73¾° west, 3.95 chains; thence south 82¼° west, 9 chains; thence south 70¼° west, 4.21 chains; thence north 69° west, 8.65 chains; thence north 56° west, 14.78 chains; thence north 65¼° west, 3.88 chains; thence south 65° west, 7.20 chains; thence north 63¼° west, 7.92 chains; thence south 73½° west, 3.43 chains; thence south 85° 35′ west, 9.59 chains; thence south 44½° west, 4 chains; thence south 53° west, 8.07 chains; thence south 68¾° west, 3.19 chains; thence south 74° west, 2.96 chains; thence north 29½° west, 4.07 chains; thence
267 north 53¾° west, 6.12 chains; thence north 14½° west, 2.50 chains; thence north 41¾° west, 4.68 chains; thence north 75½° west, 3.64 chains; thence south 75¾° west, 5.55 chains; thence south 63° west, 3.93 chains, to the point of commencement. And also more particularly described follows, to wit: Commencing at a point 12 chains due north from the southeastern corner of the above-described tract of land; thence due north 40 chains; thence due west 40 chains; thence due north 20 chains; thence due west 80 chains; thence due north 20 chains; thence due west 20 chains; thence due south 40 chains; thence due east 20 ch's; thence due south 20 chains; thence due east 40 ch's; thence due south 20 chains; thence due east 80 chains, to the place of beginning. Both of the foregoing descriptions include principally the same piece.

To have and to hold the same unto the said F. M. Haight, his heirs and assigns, forever.

In witness whereof, I, the said late sheriff, have hereunto set my hand and affixed my seal the day and year first above written.

DAVID SCANNELL, [SEAL.]
Late Sheriff of San Francisco County.

Signed, sealed, and delivered in presence of—
THOS. H. FLANAGAN.

268 STATE OF CALIFORNIA,
City and County of San Francisco, ss:

On this twelfth day of May, A. D. one thousand eight hundred and fifty-eight, before me, Preston K. Woodside, a notary public in and for said city and county, personally appeared Thomas H. Flanagan, personally known to me to be the same person whose name is subscribed to the annexed instrument as a witness thereto, who, being by me duly sworn, deposed and said that he resides in the city and county aforesaid; that he was present and saw David Scannell, late sheriff of said county, known to him to be the same person described in and who executed the annexed instrument as a party thereto, sign, seal, and deliver the same; and that the said David Scannell, late sheriff, acknowledged in the presence of deponent that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned, and in the capacity therein named, and that he, the deponent, thereupon signed his name as a subscribing witness thereto.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[SEAL.] P. K. WOODSIDE,
Notary Public.

269 A true copy of an original recorded at the request of F. M. Haight, May 12th, 1858, at 7 min. past 4 o'cl'k p. m.
G. W. BECKH, *County Recorder.*

I, Thomas Young, county recorder in and for the city and county of San Francisco, do hereby certify that the foregoing is a full, true, and correct copy of an original record now in my office, as will appear by reference to liber 77 of deeds, page 260.

Witness my hand and official seal this sixth day of January, A. D. 1862.

Endorsed: Filed April 14, 1862.
W. H. CHEVERS, *Clerk.*

Exhibit Ransom A., No. 3.

J. G. Dennison and wife to William O. Andrews.

This indenture, made the second day of June, A. D. one thousand eight hundred and fifty-seven, between James G. Dennison and Josefa, his wife, of the city and county of San Francisco, of the first
270 part, and William O. Andrews, of said city and county, of the second part, witnesseth: That the said parties of the first part, for and in consideration of the sum of ten thousand dollars lawful money of the United States of America, to them in hand paid by the party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have remised, released, and quitclaimed, and by these presents do remise,

release, and quitclaim, unto the said party of the second part, and to his heirs and assigns forever, all that certain tract or parcel of land known as the Lake House property, near the line which divides the city and county of San Francisco from the county of San Mateo, containing upwards of 640 acres, with the buildings and improvements thereon, commencing at the bridge NW. from said Lake House and running thence south 66½° east, $3\frac{76}{100}$ chains; thence south 56¾° east, $7\frac{53}{100}$ chains; thence south 45° east, $4\frac{74}{100}$ chains; thence south 34° 40′ east, $3\frac{59}{100}$ chains; thence south 41½° east, $8\frac{26}{100}$ chains; thence south 39½° east, $5\frac{43}{100}$ chains; thence south 68½° east, $8\frac{68}{100}$ chains; thence south 85° east, 7 chains; thence south 49° 20′ east, $5\frac{67}{100}$ chains; thence south 32¼° east, $7\frac{80}{100}$ chains; thence south 28½° east, $20\frac{50}{100}$ chains; thence south 41½° east, 14 chains; thence south 56° 20′ east, $7\frac{62}{100}$ chains; thence south 12° west, $11\frac{41}{100}$ chains; thence north 57½° east, $6\frac{28}{100}$ chains; thence south 88½° east, $15\frac{75}{100}$ chains; thence north 70¾° east, $8\frac{74}{100}$ chains; thence south 79° east, $23\frac{94}{100}$ chains; thence south 36½° east, $4\frac{18}{100}$ chains; thence south 70° 20′ east, $13\frac{88}{100}$ chains; thence north 16¼° west, $61\frac{38}{100}$ chains; thence north 47¾° west, 50 links; thence north 88° 25′ west, $2\frac{78}{100}$ chains; thence north 69° west, $7\frac{28}{100}$ chains; thence north 63¼° west, $2\frac{10}{100}$ chains; thence north 83° west, $1\frac{68}{100}$ chains; thence south 73¾° west, $3\frac{95}{100}$ chains; thence south 82¼° west, 9 chains; thence south 70¼° west, $4\frac{21}{100}$ chains; thence north 69° west, $8\frac{65}{100}$ chains; thence north 56° west, $14\frac{78}{100}$ chains; thence north 65¼° west, $3\frac{88}{100}$ chains; thence south 65° west, $7\frac{20}{100}$ chains; thence north 63¼° west, $7\frac{92}{100}$ chains; thence south 73½° west, $3\frac{42}{100}$ chains; thence south 85° 35′ west, $9\frac{59}{100}$ chains; thence south 44½° west, 4 chains; thence south 53° west, $8\frac{75}{100}$ chains; thence south 68¾° west, $3\frac{19}{100}$; thence south 74° west, $2\frac{06}{100}$ chains; thence north 29½° west, $4\frac{69}{100}$ chains; thence north 53¾° west, $6\frac{12}{100}$ chains; thence north 14½° west, $2\frac{50}{100}$ chains; thence north 41¾° west, $4\frac{68}{100}$ chains; thence north 75½° west, $3\frac{64}{100}$ chains; thence south 75¾° west, $5\frac{55}{100}$ chains; thence south 63° west, $3\frac{93}{100}$ chains, to the point of commencement; and also more particularly described as follows, to wit: commencing at a point due north 12 chains from the southeastern corner of the above-described tract of land, thence due north 40 chains; thence due west 40 chains; thence due north 20 chains; thence due west 80 chains; thence due north 20 chains; thence due west 20 chains; thence due south 40 chains; thence due east 20 chains; thence due south 20 chains; thence due east 40 chains; thence due south 20 chains; thence due east 80 chains, to the place of beginning; the same being known as the Haro ranch property, or the Rancho de la Laguna de la Merced, situate, lying, and being in the county of San Francisco, and both of the foregoing descriptions include principally the same tract of land, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in, or

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to the above-described premises, and every part and parcel thereof, with the appurtenances. To have and to hold all and singular the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, his heirs and assigns forever.

In witness whereof, the said parties of the first part have hereunto set their hand and seal the day and year first above written.

JAMES G. DENNISTON. [SEAL.]
JOSEFA HARO DENNISTON. [SEAL.]

Sealed and delivered in presence of—
RUSSELL D. PERKINS.
ALONZO HARO.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

On this second day of June, A. D. one thousand eight hundred and fifty-seven, before me, S. P. Burnham, a justice of the peace in and for the said county, personally appeared James G. Dennison and Josefa Haro Dennison, his wife, personally known to me to be the individuals described in and who executed the annexed instrument as parties thereto, and acknowledged to me that they executed the same freely and voluntarily, and for the uses and purposes therein mentioned. And the said Josefa, wife of the said James G. Dennison, having been by me first made acquainted with the contents of said instrument, acknowledged to me, on examination apart from and without the hearing of her husband, that she executed the same freely and voluntarily, without fear or compulsion or undue influence of her husband, and that she did not wish to retract the execution of the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, the day and year first above written.

S. P. BURNHAM, [SEAL.]
Justice of the Peace, 10th dist.

A true copy of an original, recorded at request of W. O. Andrews, April 27, 1858, at ½ past 12 m.

G. W. BECKH,
County Recorder.

I, Thomas Young, county recorder in and for the city and county of San Francisco, do hereby certify that the foregoing is a full, true, and correct copy of an original record now in my office, as will appear by reference to liber 76 of deeds, page 298.

Witness my hand and official seal this sixth day of January, A. D. 1862.

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

Exhibit "Ransom A., No. 4."

Charles Brown to Michael Reese.

This indenture, made the third day of April, in the year of our Lord one thousand eight hundred and fifty-five, between Charles Brown, of the city and county of San Francisco, State of California, of the first part, and Michael Reese, of said city, county, and State, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of twenty thousand dollars, to him in hand paid by the said party of the second part, does grant, bargain, sell, and confirm unto the said party of the second part, and to his heirs and assigns forever, all the right title, and interest, in law or equity, of the party of the first part, in and unto the
276 Lake House property, land and premises, situated in said county of San Francisco, the party of the first part hereby intending to convey all the interest, property, and estate conveyed by deed of this date, by the party of the second part, to the party of the first part, and for a more particular description of the property and premises hereby intended to be conveyed, reference is had to said deed: together with all the right, title, and interest of all the adult heirs of the late Francisco de Haro, deceased, in and unto the premises above described, which said interest of said heirs the party of the first part, for a good consideration, hereby undertakes to have conveyed to himself within six months from the date hereof, in order that, by operation of law, the same interest shall become security to the party of the second part; and it is understood that the party of the first part reserves to himself the right to sell and convey any portion of the Lake House property and premises, to any person or persons, provided he shall thereupon pay to the party of the second part such sum upon the note described below as will bear the same proportion to the amount of the note as the portion of the property sold shall bear in value to the whole value of the Lake House
277 estate, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining.

This conveyance is intended as a mortgage to secure the payment of the sum of twenty thousand dollars, according to the tenor of the following note given by the party of the first part to the party of the second part, to wit:

SAN FRANCISCO, *April 3d*, 1855.

Five years after date, value received, I promise to pay Michael Reese, or order, twenty thousand dollars, with interest, at the rate of ten per cent. pr. annum, payable semi-annually, with this understanding, however, that if, by reason of any lien or incumbrance upon the premises for which this note is given, by virtue of any claim or right to the same in John Middleton, J. Anderson, C. L. White, Thomas J. Jones, or Ferdinand Vassault, or their creditors, or all or either of them, I shall thereby be subjected to loss or damage in any

amount of money prior to the expiration of said five years, such amount shall be deducted from said twenty thousand dollars, and these presents shall be void if such payment be made. But in case default be made in the payment of the principal or interest, as above provided, then the party of the second part, his executors,
278 administrators, and assigns, are hereby empowered to sell the premises above described, with all and every of the appurtenances, or any part thereof, in the manner prescribed by law, and out of the money arising from such sale, to retain the said principal and interest, together with the costs and charges of making such sale; and the overplus, if any there be, shall be paid by the party making such sale, on demand, to the party of the first part, his heirs and assigns.

In witness whereof, the said party of the first part has hereunto set his hand and seal, the day and year first above written.

CHARLES BROWN. [SEAL.]

Signed, sealed, and delivered in the presence of—
R. F. PERKINS.

Know all men by these presents, that I, Rosalia Brown, wife of Charles Brown, named in the foregoing mortgage, do hereby, for the consideration named in said mortgage, and with which I am fully contented, do hereby join my said husband in said conveyance, hereby meaning to convey in mortgage all my interest in the property described in said mortgage.

ROSALIA HARO. [SEAL.]

Signed, sealed, and delivered in presence of—
279 CHARLES HALSEY.

STATE OF CALIFORNIA,
County of Francisco, ss:

On this sixth day of April, A. D. one thousand eight hundred and fifty-five, before me, a notary public in and for said county, personally appeared Charles Brown, and Rosalia Brown, his wife, to me personally known to me to be the individuals in and who executed the foregoing instrument, and acknowledged that they executed the same freely and voluntarily for the uses and purposes therein mentioned, and the said Rosalia Brown, after first being by me made acquainted with the contents of said instrument, acknowledged to me on examination apart from and without the hearing her said husband, that she executed the same freely and voluntarily without fear or compulsion or undue influence of her said husband, and that she does not wish to retract the execution of the same.

In witness whereof, I have hereunto set my hand and affixed my
[SEAL.] official seal in the county aforesaid, the day and year first above written.

CHARLES HALSEY,
Notary Public.

280 A true copy of an original, recorded at request of Mr. Reese, April 7, 1855, at 10¾ p. m.

JAMES GRANT,
County Recorder.

I, Thomas Young, county recorder in and for the city and county of San Francisco, do hereby certify that the foregoing is a full, true, and correct copy of an original record now in my office, as will appear by reference to liber 26, of mortgages, page 126.

Witness my hand and official seal this sixth day of January, A. D. 1862.

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

Exhibit "Ransom A, No. 5."

James G. Denniston and wife to William O. Andrews.

This indenture, made this fifth day of May, A. D. one thousand eight hundred and fifty-eight, between James G. Denniston and his wife, Josefa Haro Denniston, of the city and county of San Francisco and State of California, parties of the first part, and William
281 O. Andrews, of said city, county, and State, parties of the second part, witnesseth: That the said parties of the first part, for and in consideration of the sum of one dollar lawful money of the United States of America to them in hand paid, the receipt whereof is hereby acknowledged, have granted, bargained, sold, remised, conveyed, and quitclaimed, and by these presents do grant, bargain, sell, convey, and quitclaim unto the said party of the second part, and to his heirs and assigns forever, all the right, title, and interest of the said parties of the first part in and to that certain piece or parcel of land situate and being in the city and county of San Francisco, and known as the "Lake House property," and containing upwards of six hundred and forty acres, and described as follows, to wit: Commencing at the point northwest form the lake house where the two lakes meet, and where the old bridge stood; and running thence south 66½° east, 3.26 chains; thence south 56¾° east, 7.53 chains; thence south 45° east, 4.74 chains; thence south 34° 40′ east, 3.59 chains; thence south 41½°, east 8.26 chains; thence south 39½° east, 5.43 chains; thence south 68½° east, 8.68 chains; thence south 85° east, 7 chains; thence south 49° 20′ east, 5.67 chains; thence south 32¼° east,
282 7.80 chains; thence south 28½° east, 10.50 chains; thence south 41½° east, 14 chains; thence south 56° 20′ east, 7.09 chains; thence south 12° west, 11.41 chains; thence north 57½° east, 6.28 chains; thence south 88½° east, 15.75 chains; thence north 70¾° east, 8.74 chains; thence south 79° east, 23.94 chains; thence south 36½° east, 4.18 chains; thence south 70° 20′ east, 13.88 chains; thence north 16¼° west, 61.38 chains; thence north 16¼° west, 61.38 chains; thence north 47¾° west, 50 links; thence north 88° 25′ west, 20.78 chains; thence north 69° west, 7.28 chains; thence north 63¼° west, 2.10 chains; thence north 83° west, 1.68 chains; thence

south 73¾° west, 3.95 chains; thence south 82¼° west, 9 chains; thence south 70¼° west, 4.21 chains; thence north 69° west, 8.65 chains; thence north 56° west, 14.78 chains; thence north 65¼° west, 3.88 chains; thence south 65° west, 7.20 chains; thence north 63¼° west, 7.92 chains; thence south 73½° west, 3.43 chains; thence south 85° 35′ west, 9.59 chains; thence south 44½° west, 4 chains; thence south 53° west, .87 chains; thence south 68¾° west, 3.19 chains; thence south 74° west, 2.96 chains; thence north 29½° west, .47 chains; thence north 53¾° west, 6.12
283 chains; thence north 14½° west, 2.50 chains; thence north 41¾° west, 4.68 chains; thence north 75½° west, 3.64 chains; thence south 75¾° west, 5.55 chains; thence south 63° west, 3.93 chains, to the point of beginning. And also more particularly described as follows, to wit: Commencing at a point 12 chains, due north, from the southeastern corner of the above-described tract of land; thence due north, 40 chains; thence due west, 40 chains; thence due north, 20 chains; thence due west, 80 chains; thence due north, 20 chains; thence due west, 20 chains; thence due south, 40 chains; thence due east, 20 chains; thence due south, 20 chains; thence due east, 40 chains; thence due south, 20 chains; thence due east, 80 chains, to the place of beginning. Both of the foregoing descriptions include principally the same piece. This deed is made to correct certain clerical errors in a certain deed made by the said Denniston and wife to the said Andrews, dated June 2nd, 1857, and recorded in liber 76, deeds, page 298, in the office of the recorder of the county of San Francisco. Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, and the rent, issues and profits thereof. To have and to hold all
284 and singular the above-mentioned and described premises, together with the appurtenances, unto the said party of the second part, his heirs and assigns forever.

In witness whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

JAMES G. DENNISTON. [SEAL.]
JOSEFA HARO DENNISTON. [SEAL.]

Witness:
ISAAC V. DENNISTON.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

On this seventh day of May, A. D. one thousand eight hundred and fifty-eight, before me, S. P. Burnham, a justice of the peace in and for said county, personally appeared James G. Denniston and Josefa Haro Denniston, his wife, personally known to me to be the individuals described in and who executed the annexed instrument as parties thereto, and acknowledged to me that they executed the same freely and voluntarily, and for the uses and purposes therein mentioned. And the said Josefa Haro Denniston, wife of the said James G. Denniston, having been by me first made acquainted with

285 the contents of said instrument, acknowledged to me, on examination apart from and without the hearing of her husband, that she executed the same freely and voluntarily, without fear or compulsion or undue influence of her husband, and that she did not wish to retract the execution of the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

S. P. BURNHAM, [SEAL.]
Justice of the Peace.

A true copy of an original, recorded at the request of W. O. Andrews, May 8th, 1858, at 10 min. past 2 p. m.

G. W. BECKH,
County Recorder.

I, Thomas Young, county recorder in and for the city and county of San Francisco, do hereby certify that the foregoing is a full, true, and correct copy of an original record now in my office, as will appear by reference to liber 77, of deeds, page 199.

Witness my hand and official seal this sixth day of January, A. D. 1862.

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

286 *Dep. of Jeremiah Clarke.*

United States district court, northern district of California.

THE UNITED STATES
vs.
JOSEFA DE HARO *et als.*

SAN FRANCISCO, 16*th Jan'y*, 1862.

On this day, before me, Henry C. Hyde, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Jeremiah Clark, a witness produced on behalf of the United States in case No. 380, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 102 on the docket of the said board of commissioners, and was duly sworn, and testified as follows.

Present: W. H. Sharp, U. S. dist. att'y, by J. B. Crockett and Tully R. Wise, and McDougall & Sharp, att'ys for claimant, by W. H. Tompkins.

Questions by the United States. What is your name, age, and place of residence?

Ans. My name is Jeremiah Clark; age, forty-five years; and I reside in San Francisco.

Q. 2. What is your occupation, and how long have you followed such occupation?

287 Ans. I am an attorney-at-law, and have been for twenty years. I was a member of the firm of Clarke, Taylor & Beckh. I know the rancho of Laguna de la Merced. Our said firm

of Clark, Taylor & Beckh presented the claim to the land commission, and I personally had control of that branch of our law business. Ramon de Zaldo, acting as the administrator of the estate of Francisco de Haro, employed us to *to* present that claim, and also the claim for the Potrero, and also to act as counsel for the estate in other matters. At an early period of the history of the land commission it had been deemed proper by the claimants or their attorneys to file with the board preliminary surveys of the tract claimed, but the board subsequently had decided not to make any such orders, and after that it was generally deemed that surveys of that kind, if filed by the claimants, would have no effect upon the decision of the board. I do not recollect the fact of having applied for a survey, nor of having filed it in the case. I have seen in the letter-book in the surveyor general's office what purports to be
288 a copy of a letter addressed to the surveyor general in the latter part of 1853 or the beginning of 1854, by Clark, Taylor & Beckh, as attorneys for the rancho of Laguna de la Merced, and I find in the field-notes of that survey, which was made upon that request, that two of the employés in our law office were employed in making that survey, one as chain-bearer and the other as axeman, and I recollect, too, having some conversation about that time in regard to the probable motives of the agent or administrator of the estate in causing the survey to be applied for and made. That is about all I recollect. I left California on the 16th March, 1854, and returned 2nd October, 1854.

NOTE.—Counsel for claimant objects to the evidence as irrelevant and immaterial. Also, he objects to all that which pertains to letter of witness as incompetent, the letter itself being the best evidence. It was agreed that counsel might reserve his objections to the end of the deposition.

J. CLARKE.

Before me this 16th Jan'y, 1862.

HENRY C. HYDE,
U. S. Com'r.

289 It is stipulated and agreed by and between the parties that the foregoing be taken as the deposition of said Clark, and have the same effect as if sworn to before a commissioner.

McDOUGALL & SHARP,
Per W. H. TOMPKINS.
TULLY R. WISE,
For W. H. SHARP.

It is hereby stipulated and agreed that the foregoing deposition of J. Clarke be taken and considered as having been duly sworn to and subscribed before said Henry C. Hyde, U. S. Com'r, 16th Jan'y, 1862.

McDOUGALL & SHARP,
Att'ys for Claimants.
Per W. H. TOMPKINS.
WM. H. SHARP,
U. S. Att'y.

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

290 *Dep. of Charles Clark.*

U. S. district court, northern district of California.

THE UNITED STATES
vs.
JOSEFA DE HARO *et als.*

SAN FRANCISCO, 13*th Jan'ry*, 1862.

On this day, before me, Henry C. Hyde, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came Charles Clark, a witness produced on behalf of the United States in case No. 380, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 102 on the docket of the said board of commissioners, and was duly sworn, and testified as follows.

Present: W. H. Sharp, U. S. dist. att'y, by J. B. Crockett and Tully R. Wise, and McDougall & Sharp, by W. H. Tompkins.

Questions by the United States.

Q. 1. What is your name, age and place of residence?

Ans. My name is Charles Clark; my age is thirty-nine years; and I reside in San Mateo county.

291 Q. 2. Are you acquainted with the tract of land known as the Laguna de la Merced; and if so, how long have you known it?

Ans. I am acquainted with it, and have been since April or May, 1851.

Q. 3. Are you acquainted with the prominent localities and natural objects on the said tract, and the character of the land of the different portions thereof?

Ans. I believe I am, sir.

Q. 4. What is the character of that portion of said tract lying northward and eastward of the southernmost branch of the Laguna de la Merced or Lake Merced? Is it hilly or level, or sandy or loamy?

Ans. It is a level, sandy tract of land.

Q. 5. What is the character of the land lying southward and southeasterly and southwesterly of the said southern branch of the laguna, and down to the line of the Buriburi and San Pedro ranchos, and also in the direction of the Portezuelo?

292 Ans. It is a level tract and sandy soil to the Buriburi line on the southeasterly side, but on the southern and southwesterly side it is hilly land and black loamy soil.

Q. 6. Examine the map now shown to you, marked "Exhibit Ransom A, No. 1," on file in this cause, and state whether or not, in the year 1853 and prior and subsequent thereto, you were acquainted with the character and value of the lands embraced within the yellow lines on said map, and also the lands embraced within the large lines shaded pink on said map; and if so, what was the relative value in the market in 1853 of the said lands embraced in the yellow lines and the pink lines aforesaid?

Ans. I was acquainted with said lands in 1853 and prior and subsequent thereto. The only value I know anything about is the lands lying within the pink lines; that within the pink lines was most valuable in 1853.

Q. 7. If the lands lying within the said pink lines and those lying within the said yellow lines had been put into the market for sale in 1853, which would have commanded the highest price?

293 NOTE.—Counsel for claimant objects to the question on the ground that it may not be a test of the value of the relative tracts.

Ans. The land lying within the pink lines.

Q. 8. In 1853, prior to July or Aug. of that year, what improvements, if any, were there on the said land embraced within the said yellow lines, and on all that portion of the lands represented by the buff shading on the said map?

Ans. I can't tell, certainly; I do not know that there was any; there might have been; I suppose there were some, but I see by this map there none. I cannot make out from this map that there were any improvements.

Q. 9. Are you acquainted with the present improvements existing on the tract described in the last question; and if so, do you know when they were made, and whether before or after July or August, 1853? And if any of them were made before that time, state which of them.

Ans. I know the improvements now on the land. I do not remember that any of them were there before 1853.

294 Q. 11. State whether or not you were present at a survey of the rancho Laguna de la Merced, made by Leander Ransom in July or August, 1853, or at any part. And if so, which part of said survey?

(Objected to by counsel for claimants on the ground that said question is incompetent and irrelevant, and because said survey was not authorized by law.)

Ans. I was present at the survey made by him of the exterior boundaries; was not at any other portion of said survey.

Q. 12. How far is it from the mission Dolores to the nearest point of the land embraced within the large pink lines on the map hereinbefore referred to?

Ans. It must be about 8 miles, I think.

Q. 13. How far is it from the said mission Dolores to the nearest point of the land embraced within the yellow lines?

Ans. About 8½ miles, I should think.

Q. 14. Did you know a house formerly occupied by one Andrews; if so, where was it situated?

295 Ans. I knew a house on the land which I was told was the house; it is marked within the red lines on this map close to the southern line.

Q. 15. What is the general character of the land embraced within the said yellow lines? Is it sandy or loamy; if so, what part of it is sandy, and what part is loamy?

Ans. I know the character of it; the eastern portion towards the eastern line is sandy, the balance is hilly land with a black loamy soil.

Q. 16. To what extent, if any, have the lands embraced within the said yellow lines been increased in value by improvements put upon them since July or August, 1853?

Ans. I am not able to say the amount of improvements that have been put on. I know that they are all enclosed, with houses on them. I cannot say how much they have been improved.

Q. 7. Are you acquainted with Charles Brown, the husband, Rosalia de Haro, one of the children of Francisco de Haro? If so, how
296 long have you known him?

Ans. I have known him since the winter of 1851.

Q. 18. Have you had any conversation with said Brown in respect to the location of the lands claimed by the heirs of Francisco de Haro under the grant of the said rancho Laguna de la Merced? If so, state the said conversation, when and where it occurred.

NOTE.—Counsel for claimant objects to the question on the ground of irrelevancy and immateriality.

Ans. I have; the first place it occurred was on the Sanchez rancho, the Buriburi; near the line Charles Brown told me and James my brother that he had succeeded in getting the de Haro family at the mission for one week, and they had agreed upon a location, and were going or had selected their land, I will not be positive which, at the lake house; and he said he would be damned if he was going to give up the lake house; that he, Brown, intended to squat in the valley right above the Laguna of San Bruno, and he did so, and built a house.

This conversation occurred in July or August, 1853.

297 At another time afterwards, but I do not remember the year, in my house he told me that where he built his house it was his "claim;" he said he had pre-empted it, but that was not so; it was a squatter's claim. He said he and Perkins had pre-empted 320 acres.

NOTE.—Counsel for claimant objects to anything that Charles Brown said the de Haros said or did as hearsay testimony.

Q. 19. Was the first conversation you have related before or after the survey of said rancho by Ransom?

Ans. It was before, I believe.

Q. 20. Had you any other conversation with him after Ransom's survey was made, and in respect to said survey?

Ans. Yes, sir; at different times we have had conversations about the survey of the rancho. When the official survey was about to be made he said the one with red lines was wrong, and they were about to make a new one.

Q. 21. Can you point out on the map before referred to
298 about the location of the 320 acres claimed by Brown, as you have stated?

Ans. His house was on the west side of the San José road, on the northeast quarter of section 12, between the road and the east line of the official survey.

NOTE.—Counsel for claimant objects to anything that Charles Brown said, on the ground of irrelevancy, immateriality, and incompetency.

Cross-examination by counsel for claimant.

Q. 1. Have you, or do you now claim, any land within the exterior boundaries of this grant?

Ans. I own land inside of these exterior boundaries; my land is east of the official survey, and is east of the line marked range line, and is southwest quarter of section 7.

NOTE.—Counsel for claimant objects to the whole of Clark's evidence, because he is interested.

Q. 2. You state that the balance of the land in pink was
299 greater than that in yellow in 1853; will you state the reasons of that opinion?

Ans. At that time, the winter of 1853, Sam. Brannan offered $40 an acre for land about the lake house. At that time there was not a bid nor an offer made for land within the yellow lines; a man could not sell a claim within the yellow lines for any price; he could not get an offer for it. I have no other particular reason.

Q. 3. Have you any other general reason?

Ans. I have always understood that land has rented higher around the lake house.

Q. 4. Is that true, in fact?

Ans. Yes, sir; but now the land does not rent for as much because it is worn out.

Q. 5. How high have you known land rented at the lake house or in that vicinity?

Ans. I have heard that land was rented over there from $5 to $7, and as high as $10 per acre; I do not know it myself, but was told so by the people who rented the land.

Q. 6. Who told you so?

300 Ans. I think Mr. Mar told me so for one. I do not remember whether he told me from $5 to $7 an acre. I have no personal knowledge myself; all I know I have heard from others.

Q. 7. Your opinion of the worthlessness or value of the land within the official survey in 1853 is based wholly on the fact, is it not, that you never heard any price or bid made for any portion of it?

Ans. My opinion is based on the fact that I never heard of any offer being made for land within the yellow lines in 1853.

Q. 8. You say the land around the lake house is worn out, and therefore not as good as the land within the official survey; does that not show that the land really within the official survey was more valuable in 1853 than the lands around the lake house; and if not, why not?

Ans. No, sir; the land was worth in 1853 just what it would sell for.

Q. 9. Has not the land within the official survey been cultivated since 1853 to the same extent as the land around the lake
301 house?

Ans. No, sir, I think not; I do not know certainly; my opin-

ion is that more land within the Lake House tract was cultivated in 1853; the land within the yellow lines is the strongest, the most productive land, and the best land; but it was not thought so in 1853. The land within the official survey was really the best land, but people did not think so. Brown never had but one claim within the ranch that I know of; I mean but one squatter claim, and he had no pre-emption for that. My house is $8\frac{3}{4}$ miles from the old toll-gate; it is a mile and a half from the Portezuelo to my house; it is called seven miles to the Portezuelo from the mission.

Re-direct.

Are the waters in the Laguna de la Merced salt or fresh water; and if salt, when did they become salt?

Ans. They are salt, and became so in 1852 or 1853; there was a tremendous storm and an earthquake the same night, and the water broke through from the ocean.

302 Q. In your direct examination you testified that it was about 8 miles from the mission Dolores to the nearest point of the land embraced within the red lines on the map shown you; have you now any explanation to make in respect to such statement?

Ans. I misunderstood the former question; I have no idea how far it is from the northeast corner to the mission.

Re-cross-examination by claimants' counsel.

Q. How much is your land worth an acre?

Ans. My land is worth $10 an acre, I suppose.

CHARLES CLARK.

Before me, this 13th Jan'y, 1862.

HENRY C. HYDE,
U. S. Com'r.

It is hereby stipulated and agreed, that the foregoing deposition of C. Clark be taken and considered as having been duly sworn and subscribed before said Henry C. Hyde, U. S. com'r.

13th Jan'y, 1862.

McDOUGALL & SHARP,
Att'ys for Claimants.

303 Per W. H. TOMPKINS.

WM. H. SHARP,
U. S. Att'y.

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

Dep. of John W. Locker.

In the United States district court, northern district of California.

THE UNITED STATES
vs.
JOSEFA DE HARO *et als.*

SAN FRANCISCO, 17 *Jan'y*, 1862.

On this day, before me, Henry C. Hyde, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came John W. Locker, a witness produced on behalf of the United States in case No. 380, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 102 on the docket of the said board of commissioners, and was duly
304 sworn and testified as follows :

Present : W. H. Sharp, U. S. dist. att'y, by T. R. Wise ; and McDougall and Sharp, by W. H. Tompkins.

Questions by the United States.

1. What is your name, age, place of residence and occupation?

Ans. My name is John W. Locker; age, thirty-five; I reside in Santa Clara county, and my occupation is farming and stock-raising.

Q. 2. Do you know the rancho of Laguna de la Merced?

Ans. Yes, sir; I have known it since I first went out there in June, 1852 ; I lived by a small lake called San Bruno; I think I have been all over the lands shown on the map, Exhibit Ransom A, No. 1, or pretty much so; I have been all over the south part of it. In 1852, there was a Frenchman who had a milk ranch at the south end of Laguna de la Merced; there was another person living on that portion that I knew of at that time; he lived a half or three-quarters of a mile from Lake Merced, as near as I could guess ; there was
305 some kind of a house and a corral or two; I think I know all the places shown on map, Exhibit Willard No. 1; some of them have changed names. Those places were not settled in 1852; nobody at all was living there ; the tract of country shown on map, Exhibit Willard No. 1, first began to be settled in 1853, as near as I can now recollect, about August ; I do not know why it begun then to be settled, except that people wanted houses to settle on.

I know White's place; all those of the places; I do not know the value of any of the improvements. S. S. White has a good frame house; he has good farming out-buildings. I know Charles Brown who married one of the de Haro heirs; I heard a part of a conversation between Charles Brown and my brother-in-law James S. Clark, about where the lands of the Laguna de la Merced were situated; I understood, from the conversation that I heard, that they were situated at the Laguna de la Merced; he told my brother-in-law that the land along the Buriburi line was government land; that some friends of his, Brown's, wanted to locate school land warrants on it. I located myself at the place marked W. Burley on Exhibit Willard No. 1; I sold to
306 Burley. He, Brown, at the same conversation told my brother-in-law, in my presence, that that was government land; the

way he spoke it, as near as I can recollect, was, that that was not the De Haro estate; it did not come down so far. There was something said about how far it did come down, but I could not recollect now; there was a place there that I understood was Brown's, though it was in somebody else's name; Brown said he was going to settle there on government land. All the land north of the Buriburi, and east to the Laguna de San Bruno, was supposed to be government land at that time by me, and I suppose by all the rest; I myself went before government officers and proved up my claim to the place I sold to Burley, and paid the government for it; Mr. Thornton, Mr. Woods, Mr. Knowles, Mr. Clark, Mr. Comonfort, all did the same. There was a notice in the paper supposed to be given to us; I do not recollect the section that notice said; I do not now remember the township it mentioned.

I saw the government officers surveying when they ran the section lines, but I was not with them.

NOTE.—Counsel for claimant objects to the whole deposition, on the ground of irrelevancy, immateriality and incompetency;
307 they object to that which pertains to the conversation of Brown upon the ground that it is a part of a conversation, and not the whole of it; and also, that it is hearsay.

It was agreed to reserve all objections to the end.

JOHN W. LOCKER.

Before me, this 17th January, 1862.

HENRY C. HYDE, *U. S. Com'r.*

It is stipulated and agreed that the foregoing be taken as the deposition of John W. Locker, subject only to objections noted.

McDOUGALL & SHARP,
Att'ys for Claimants.
Per W. H. TOMPKINS.
TULLY R. WISE,
For W. H. SHARP.

It is hereby stipulated and agreed that the foregoing deposition of John W. Locker be taken and considered as having been duly sworn to and subscribed before said Henry C. Hyde, U. S. com'r, 17th Jan'y, '62.

McDOUGALL & SHARP,
Att'ys for Claimants.
Per W. H. TOMPKINS.
WM. H. SHARP, *U. S. Att'y.*

Endorsed: Filed April 14, 1862.

WM. H. CHEVERS, *Clerk.*

308 *Dep. of A. J. Willard.*

United States district court, northern district of California.

THE UNITED STATES
vs.
JOSEFA DE HARO *et als.*

SAN FRANCISCO, *January 10th*, 1862.

On this day, before me, Henry C. Hyde, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came A. J. Willard, a witness produced on behalf of the United States in case No. 380, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 102 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present: William H. Sharp, United States dist. att'y, by J. B. Crockett and Tully R. Wise, on behalf of the United States; and Walter H. Tompkins on behalf of Josefa de Haro *et als.*

Questions by the United States.

309 Question 1. What is your name, age, and place of residence?

Answer. A. J. Willard; I live in San Mateo county; I am forty-three years old.

Q. 2. Are you acquainted with the rancho Laguna de la Merced?

Ans. I am.

Q. 3. Do you know the lines of the official survey of said ranch, and are you acquainted with the several improvements within the lines of said official survey, and the value of said improvements, and by whom and at what time said improvements were made? Describe the said improvements severally, and the value thereof.

Ans. I do not know that I do exactly; I think I know them all; I was not present at said survey; I have seen maps of the survey; I have lived adjoining it for several years; I have a general knowledge of the lines of the survey; I do not know exactly where they are, except from seeing the map; I am acquainted with all the improvements within the survey, and have an idea of their value; the most
310 of the improvements I know by whom they were made, and also near the time they were made.

Q. 4. Describe the improvements one at a time.

Ans. There is a place held by Franklin White, a dwelling-house, small barn, granary, and fences; most of these improvements were made previous to five years ago, and some from that time to this.

The value of the improvements when made were about twenty-five hundred dollars; they are now worth probably about $15,000.

There is a place by Samuel S. White also of one hundred and sixty acres of land; it has a dwelling-house, barn, granary, and shed and

fences; the cost of improvements when made was about $35,000; their present value is from twenty-three to twenty-five hundred dollars; probably over one-half was made over five years ago, and the other since, up to the last season.

Jeremiah Smith has one hundred and twenty acres; improvements are a dwelling-house, barn, and fences; I value them at twenty-five hundred dollars when they were put up; present value about eighteen hundred dollars; a part of them were put up over
311 five years ago, and the majority or over one-half were put up since that time.

H. Donks has a place of one hundred and sixty acres; improvements are a dwelling, barn, and fences; they cost about three thousand five hundred dollars; worth now twenty-five hundred dollars; most of them were made previous to five years ago, and the remainder from that time to this.

Henry Simmons has forty acres; improvements are a dwelling and fences; the improvements were not put on by Simmons, but previous to his pre-empting it; the improvements put on probably cost one thousand dollars; they are now worth about five hundred dollars; most of these improvements were put up some seven or eight years ago or more.

A. S. Easton has eighty acres; improvements are dwelling and fences; cost five hundred dollars; worth about that now; most of them put up within a year and a half.

Julius Levy has one hundred and sixty acres; improvements are a dwelling, and some five other houses, barn, stables, fences, &c.; cost when put up about twelve thousand dollars, ($12,000;) worth now five thousand dollars; a good many of the improvements were
312 put up over eight years ago; the balance from that time to the present season.

William Barley has one hundred and sixty acres; improvements two dwellings and out-buildings and fences; cost two thousand dollars; value now fifteen hundred dollars; about one-half of the improvements were put up four or five years ago, and the balance since, up to this season.

A. I. Van Winkle has one hundred and sixty acres; improvements a house, a dwelling, out-houses, fences, pipe for bringing water to premises; cost about forty-five hundred dollars; present value about twenty-five hundred dollars; some of them were put up previous to five years ago, but over half since that time.

F. E. Pierce has one hundred and sixty acres; improvements are a dwelling, a barn, out-houses, fences, pipe for bringing water; cost about five thousand dollars; worth about three thousand now; most of them have been put up within five years.

James Wood has about one hundred and twenty acres within the official survey; improvements are a dwelling, a barn, out-houses, and fences; cost probably about four thousand dollars—that is, that
313 part that is on the official survey; value now twenty-five hundred dollars; a part of them were put up seven or eight years ago, but I do not know what proportion.

R. S. Thornton has within the survey about thirty or forty acres; improvements are fences only; cost probably five hundred dollars; value now probably four hundred dollars; the fences were put up six years ago, or that is when I first knew of its being put up.

Robert Patton has between ninety and a hundred acres; improvements, a dwelling, barn, fences; cost perhaps fifteen hundred dollars; value now a thousand dollars; most of them were put within five years, but some of them six or seven years ago.

William T. Prince has one hundred and sixty acres of land; improvements, a house and barn and fences; cost fifteen hundred dollars; worth probably one thousand dollars now; most of them put up within the last five years.

Benjamin Green has about one hundred and twenty acres within the official survey; improvements, dwelling, barn and fences; cost about a thousand dollars; value now about six hundred dollars;
314 about half were put up previous to five years ago, and half since.

That is about all that are inside of the official survey.

John Davis has eighty acres, inside of the survey; improvements are a dwelling, barn and fences; cost about fifteen hundred dollars; value now a thousand dollars; most of them put up within the last five years.

Joseph and Clara Dunn have eighty acres; improvements are a house, barn and fences; cost about one thousand dollars; value now about seven hundred dollars; most of them put up since five years.

Q. 5. Do you know the exterior boundaries of the rancho Laguna de la Merced; and if so, what improvements, if any, are within the said exterior boundaries and outside of the official survey? State the value of said improvements when made.

Ans. I think I do. I know the eastern, western and southern boundaries of the exterior limits of said rancho; I am not sure that I know the northern boundary.

Hollingsworth has about 80 acres near the Portezuelo; im-
315 provements are a dwelling and fences; cost about eighteen hundred dollars; worth now perhaps half the amount; most of them were put over five years ago.

J. G. Knowles has one hundred and sixty acres; improvements, a dwelling, cow-house or barn, and fences, and sheds; cost about forty-five hundred dollars; worth now about three thousand dollars; most of them were put up over five years ago.

Henry White has about sixty or seventy acres inside of the exterior limits; improvements are fences; cost about three hundred dollars; about the same now; put up within two years.

R. S. Thornton has in the vicinity of one hundred and twenty acres outside of the official survey, and within the exterior limits; improvements, a dwelling, barn, out-buildings, and fences; cost about seven thousand dollars; value now between four or five thousand dollars; most of them put up over five years ago, or about then.

P. Castle has forty acres; improvements, a house and barn; value about four hundred dollars; put up within last two years.

Michael Comonfort has some eighty acres or over; improve-
316 ments, dwelling, barn, fences; cost about fifteen hundred dollars; value now about one thousand dollars; majority of the improvements put on over five years ago.

John Gardner has 40 acres; improvements, a dwelling, barn, outbuildings and fences; cost about three thousand dollars; value now about twenty-five hundred dollars; over half of the improvements were put on over five years ago.

That is all I know inside of the exterior limits and outside of the official survey.

Q. 6. Examine the map now shown to you, marked "Exhibit Willard No. 1," to be annexed to your deposition, and state whether it exhibits correctly, or otherwise, the localities of the several improvements you have described.

Ans. It does, so far as they appear on the map. Some persons towards the northern end, Clara Dunn, Davis and others, whom I have spoken of, do not appear on this map.

Charles Clark has a place inside of the exterior limits. I omitted to mention his place. He has one hundred and sixty acres;
317 improvements, dwelling, barn, fences; cost about three thousand dollars; value now fifteen hundred; most of them put up over five years ago; some of them put up over seven or eight years ago. Clark's place adjoins on the line of the Buriburi ranch, and eastward of the official survey. Some of the names appearing on the map are different from those I have mentioned. I have given the names of the present occupants.

Q. 7. Are you acquainted with the character of the land covered by the improvements which you have described? If so, state what is its character, and whether it is sandy land or loam, and how it compares with the land on the north side of Lake Merced.

Ans. I am acquainted with the character of said land; a part of it is sand and the rést loam. Running from Buriburi ranch north from a point between Levy's and Charles Clark's, to the Laguna de la Merced, the land lying east of that line is sandy, nearly all of it; the land lying west of that line, from the Buriburi to near Lake Merced, is black, alluvial soil. Levy's place is at the southeast corner of the official survey, and Clark's place adjoins it on the
318 east; north of Lake Merced and adjoining the lake, the land is sandy. It produces very good feed for cattle. The land covered by the improvements I have mentioned are the best adapted to raising crops; the soil is stronger. The hill lands, where the improvements are, are better adapted for grazing.

Cross-examination by Mr. Tompkins, on behalf of claimants.

Q. 1. Is all the land within the exterior boundaries of this ranch occupied?

Ans. I think it is; I know of none but what is; but on the northern boundary I am not so well acquainted.

Q. 2. Are you acquainted with all the persons and families within the exterior boundaries?

Ans. I am not, with all; there are some families on the north end that I am not acquainted with.

Q. 3. So far as you are acquainted, do the persons who occupy there hold and claim adversely to those holding under the grant?

319 Ans. They do.

Q. 4. Your estimate of the original value and costs of those improvements you have spoken of in your direct examination, was it made from your personal knowledge, or from information derived from others?

Ans. From my personal knowledge.

Q. 5. Your estimate of the present value, was that made from late personal inspection of the premises?

Ans. It was.

Q. 6. Do you reside within these exterior boundaries?

Ans. I do not; I have no interest or claim within the exterior boundaries. I came here in 1849.

A. J. WILLARD.

Before me, this 10th day of January, A. D. 1862.

HENRY C. HYDE,
U. S. Commissioner.

320 It is hereby stipulated and agreed that the foregoing deposition of A. Willard be taken and considered as having been duly sworn and subscribed before said Henry C. Hyde, U. S. com'r. 10th January, 1862.

McDOUGALL & SHARP,
Att'ys for Claimants.
Per W. H. TOMPKINS.
WM. SHARP,
U. S. Attorney.

Endorsed: Filed April 14th, 1862.

W. H. CHEVERS, *Clerk.*

(Here follows exhibit annexed to dep. of A. J. Willard—a map.)

(Here follows map, p. 320.)

321 *Dep. of B. G. Lathrop.*

United States district court, northern district of California.

THE UNITED STATES
vs.
JOSEFA DE HARO *et als.*

SAN FRANCISCO, 20*th Jan'y*, 1862.

On this day, before me, Henry C. Hyde, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came B. G. Lathrop, a witness produced on behalf of the United States in case No. 380, being an appeal

from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 102 on the docket of the said board of commissioners, and was duly sworn, and testified as follows.

Present: W. H. Sharp, U. S. dist. att'y, by T. R. Wise, and McDougall and Sharp, by W. H. Tompkins.

Questions by the United States.

1st question. What is your name, age, and place of resi-
322 dence?

Ans. B. J. Lathrop; age, 45 years; I reside at Redwood city. I am county clerk, and clerk of the board of supervisors of San Mateo, and have been from the organization of that county to this time. I know James G. Denniston and Charles Brown. When San Mateo county was organized I added up the land that was assessed, and found we were about 150,000 acres short. I then came to San Francisco and found that the country where they now claim the Laguna de la Merced was assessed to Bolton and Barron. We put it on our books in our county to them. Nobody would buy it at a tax sale. Our board of equalization then struck it from the books. We found it belonged to the de Haro heirs; it was then assessed to them. After it was assessed to them, there was about twelve or fifteen hundred dollars of tax due upon it. Mr. David Mahoney then came to our county and told the board that if they would reduce the tax to three hundred dollars he would pay it, as he thought that was about the portion that was in the county; the board agreed to it, but he has never paid the tax up to this time.

323 I have heard Mr. Denniston speak about it; he said they did not know where it would be located; they did not want to pay the tax in San Mateo because it might be located in San Francisco. That is about all I recollect.

NOTE.—Counsel for claimants objects to all the foregoing on the ground of irrelevancy, immateriality, and incompetency. It was agreed to reserve the objections to the end.

B. G. LATHROP.

Before me this 20th day of January, 1862.

HENRY C. HYDE,
U. S. Com'r.

It is hereby stipulated and agreed that the foregoing deposition of B. G. Lathrop be taken, and considered as having been duly sworn and subscribed before said Henry C. Hyde, U. S. com'r.

20th Jan'y, 1862.

McDOUGALL & SHARP,
Atty's for Claimants.
Per W. H. TOMPKINS
WM. H. SHARP, *U. S. Att'y.*

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

324 *Dep. of Israel G. Knowles.*

UNITED STATES
vs.
JOSEFA DE HARO *et als.* } No. 380, D. C.—102, L. C.

Israel G. Knowles, being duly sworn, deposes that he occupies and claims to own a tract of land within the supposed exterior limits of the rancho Laguna de la Merced, as said exterior limits were defined by a survey thereof made by Leander Ransom in 1853, a copy of which is on file in this case; that the tract so occupied by deponent is outside of the official survey of said rancho now in controversy in said cause, and lies to the eastward of the eastern line of said official survey, and near to the Portezuelo; that said deponent settled on said place in Sept., 1853, and has continued to reside there ever since; that he settled there believing it to be vacant public land, and purchased the same from the government of the United States by entering the same in the proper land office and paying for the same; that he knows all the improvements made within the lines of said official survey, and within the exterior limits of said rancho as
325 defined by Ransom's said survey. That in Sept., 1853, when deponent went to reside there, there were no improvements within the lines of the present official survey.

Being shown Exhibit Ransom A, No. 1, annexed to the deposition of Leander Ransom, deponent says: That in Sept., 1853, there were no improvements on said tract outside of the official survey upon the lands represented by the buff or drab shading on said map, except that Charles Clark had a house near Lake San Bruno. James Clark also had a house near the said lake, and very near the line of the Buriburi rancho. R. S. Thornton also had a house and some other improvements near the westerly line of the official survey, in the vicinity of the Laguna Alta. These are all the improvements which were there in Sept., 1853, except my own, which I commenced in August, 1853, and moved into the following month. Most of the improvements on the land represented by the buff or drab shading were made in 1854 and 1855, and said improvements have been added to from time to time, up to the present time. Deponent further says, that from the mission Dolores to the nearest point of the land
326 embraced in the large pink lines on said map is about three and a half miles, and to the nearest point of the official survey, about four and a half miles; that the lands embraced in the said large pink lines are, for the most part, very sandy, and that the lands in the northeastern portion of the official survey are also sandy, but at the southwestern portion thereof the lands are black loam, and rolling; that of the lands embraced in the official survey, not more than one-tenth part, in the opinion of the witness, are sandy, and the remainder are a loamy soil. That in 1853 the lands embraced in the large pink lines were generally considered more valuable than the lands embraced in the official survey, and in the opinion of the de-

ponent would, at that time, have sold for the most money; that in 1854 deponent's stock were in the habit of drinking at the Laguna de la Merced, but he thinks it was then a little brackish, though not so much so as to prevent stock from using it; that deponent has several times, and once within the last ten days, heard Charles Brown, the husband of Rosalia de Haro, say that he had taken up a squatter or pre-emption claim of 320 acres outside of the lands covered by the official survey, and near the easterly line thereof; that
327 said Brown built a house on his said claim in the year 1854. He is not positive about the year, but believes it was in 1854. When I speak of the relative value in 1853 of the lands embraced in the pink lines and in the official survey, I mean to say that the land in the pink lines, if then put in the market for sale, would have brought much more money than that in the official survey; but the land in the official survey was then, and is now, the best land, but would not then have sold for as much money as the other.

ISRAEL G. KNOWLES.

Sworn to and subscribed before me this 14th day of January, A. D. 1862.

HENRY C. HYDE, *U. S. Com'r.*

It is hereby stipulated that the foregoing affidavit may be read as evidence in the above cause with the same effect as a deposition regularly taken, subject to all exceptions, except as to the manner of taking the same.

14th Jan'y, 1862. SOL. A. SHARP,
Att'y for Claimants.

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

328 *Dep. of J. E. King.*

United States district court, northern district of California.

THE UNITED STATES
vs.
JOSEFA DE HARO *et als.*

SAN FRANCISCO, 14*th Jan'y*, 1862.

On this day, before me, Henry C. Hyde, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came J. E. King, a witness produced on behalf of the United States in case No. 380, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 102 on the docket of the said board of commissioners, and was duly sworn, and testified as follows.

Present: W. H. Sharp, U. S. dist. att'y, by J. B. Crockett and Tully R. Wise, and McDougal and Sharp, by W. H. Tompkins.

Question 1. What is your name, age, and place of residence?

Ans. J. E. King is my name; reside in San Mateo county; age, forty-four years.

329 Q. 2. Are you acquainted with the lands embraced within the official survey int his cause; also with those represented by the buff coloring on "Exhibit Ransom A, No. 1," now shown you, and the improvements on said land?

Ans. I am.

Q. 3. Have you heard read the deposition of A. J. Willard taken in this cause? And if so, state whether or not the said Willard in his deposition has testified correctly in respect to the number, description, and value of the said improvements, and the dates at which they were respectively made?

Ans. I have heard his deposition read. I think he has made about as correct a statement as any man could make from looking over the premises. Mr. Willard and myself made an examination of the premises together lately, with a view of estimating their value. I agree with Mr. Willard in his estimate.

Q. 4. Were you acquainted in 1853 with the lands covered by said improvements? If yea, state whether any, and if so, which, of the said improvements were erected prior to July or August, 1853?

330 Ans. I first knew the lands in 1854. The improvements now owned by Levy, the main building, barn, and considerable fencing were there then. There was a house on the land now owned by Henry Simmons. Mr. Clark's house was there then. There was a small house on the place which Doncks now owns, and a little corral of three or four acres, where he kept his calves. Mr. Thornton had some improvements, some fencing, and a large barn; there were some improvements on the place occupied by Patten. John Locker put up a small house on the place now occupied by Burley. Mr. Wood had some improvements, a small house, and a cow-shed. I am not positive whether Comonfort had any or not. These are all that I remember in 1854, when I first knew the land.

J. E. KING.

Before me this 14th day of January, 1862.

HENRY C. HYDE, *U. S. Com'r.*

It is hereby stipulated and agreed that the foregoing deposition of J. E. King be taken, and considered as having been duly sworn
331 and subscribed before said Henry C. Hyde, U. S. com'r, 14th Jan'y, 1862.

McDOUGALL & SHARP,
Att'ys for Claimants,
Per W. H. TOMPKINS.
WM. H. SHARP, *U. S. Att'y.*

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

Dep. of R. S. Thornton.

In the district court of the United States for the northern dist. of California.

UNITED STATES
vs.
JOSEFA DE HARO *et als.* } No. 384, D. C.—No. 102, L. C.

R. S. Thornton, being duly sworn, deposes that in June, 1852, he first became acquainted with the tract of land known as the Laguna de la Merced, in controversy in this case, ever since which time he has been intimately acquainted with the same, and with the improvements made thereon; that he knows the external boundaries of said rancho as defined by a survey thereof made by Leander Ransom
332 in 1853, and also the boundaries of the half league surveyed by said Ransom in the same year, for the purpose of locating the same, as testified by said Ransom in this cause, a copy of which survey is on file in this cause annexed to the deposition of said Ransom; that he also knows the boundaries of the official survey, and knows the lands included in all said surveys; that he knows the improvements made upon said track since the year 1853, and particularly those included in the official survey, and those lying northeast and east and west and southwest thereof; that the improvements of the following named persons are included in said official survey, to wit: Julius Levy, William Burley, R. Patton, A. J. Van Winkle, F. E. Pearce, James Wood, Jeremiah Smith, P. Donks, S. S. White, Franklin White, H. L. White, A. S. Easton, Henry Simmons, Jno. J. Cooper, B. S. Green, W. T. Prince, Clara Dunn, John Davis, and a portion of deponent's own improvements; that all the above-named persons have some portions of their improvements within said official survey, and all the improvements of some of them are included in said survey, whilst of others of them only a portion are included; that the
333 improvements of Levy were commenced by J. S. Clark in 1852, who in that year made improvements to the value of about $500, and on the following year, after the month of June, erected a house and other improvements worth about $6,000, most of which were erected after the month of August of that year; that the present improvements of said Levy, who claims under said Clark, are worth at least ten thousand dollars; that said Burley's improvements were commenced by J. W. Locker, (under whom Burley claims,) about the month of August, 1853, since which time other improvements have been made from time to time by said Locker and his vendee, Burley, and the present improvements are worth about $4,000; that Patton's improvements were commenced by J. S. Colgrave, (under whom Patton claims,) about the month of August, 1853, and have been extended from time to time, and the present improvements are worth about $2,000; that Van Winkle's improvements were commenced by M. R. Thonber, (under whom Van Winkle claims,) in the month of December, 1853, and have since from time to time been extended, and the present improvements are worth about $5,000; that Pearce's

improvements were commenced Albert Thonber, (under whom
334 Pearce claims,) in Dec'r, 1853, and have since been extended from time to time, and the present improvements are worth about $6,000; that Wood commenced his improvements in August, 1853, and have since been extended, and are now worth about $6,000; that Jeremiah Smith commenced his improvements in Oct., 1853, and has since extended them from time to time, and his said improvements are now worth about $2,000; that said Donks's improvements were commenced about Sept., 1853, by one Prudentio, who sold to Smith, (under whom Donks claims,) that said improvements have from time to time been extended, and are now worth about $3,000; that the improvements of S. S. White were commenced in Sept., 1853, by one Sawyer, under whom White claims, and have been extended from time to time, and are now worth about $3,000; that the improvements of Franklin White were begun in Sept., 1853, by one Hopkins, (under whom said White claims,) and have been extended from time to time, and are now worth about $2,500; that the improvements of H. L. White were begun in 1856, and are now worth about $400; that the improvements of A. S. Easton were begun about August, 1853, by one Perkins, and have since been extended by said Easton, and are now worth about $1,000; that the improvements of Henry Sim-
335 mons were begun in 1860, and are now worth about $700; that the improvements of said Cooper were begun by him in 1854, and have been extended from time to time, and are now worth about $1,000; that the improvements of said Green were begun by him about Sept., 1853, and have been extended from time to time, and are now worth about $1,000; that the improvements of said Prince were commenced by Alfred Green in Sept., 1853, and are now worth about $1,500; that the improvements of said Davis were begun by Alfred A. Green, (under whom Davis claims,) in Sept., 1853, and have been since extended from time to time, and are worth now about $1,500; that the improvements of Clara Dunn were begun in 1854 by said Dunn or her husband, and are now worth about $1,000; that the improvements of deponent, which are included in said official survey, were begun in August, 1853, and are worth now about $700; that within the exterior limits of said rancho, as surveyed by Ransom in 1853, and outside of said official survey, and south of the dividing line between the city and county of San Francisco and the county of San Mateo, the following-named persons have improvements, to wit: Charles Clark, who commenced his improve-
336 ments in August, 1853, and which are now worth about $3,000; Harry Byrne, who commenced his improvements in Oct., 1853, and which are worth now about $1,000; J. G. Knowles, who commenced his improvements in Sept., 1853, and which are worth now about $6,000; Mr. Hollingsworth, who commenced his improvements in Sept., 1853, and which are now worth about $2,000; John Gardiner, whose improvements were commenced in Aug., 1853, by one Baker, to whose widow Gardiner is now married, and whose improvements are now worth about $4,000; Mich'l Commoford, who commenced his improvements in Aug., 1853, and which

are now worth about $1,500; P. Castle, who commenced his improvements in 1857, and which are now worth about $300; that outside of said official survey, and within the said exterior limits as defined by Ransom's survey, deponent has improvements which were begun in August, 1853, and have been extended from time to time, and are now worth about $6,000; that in estimating the value of the improvements referred to, deponent has not been governed by what he considers they cost, nor by their cost value if sold, but by the increased value which, in his opinion, they give to the lands on which they are situate, and in his opinion the said improvements cost, respectively, more than he has estimated them at, but would
337 not, perhaps, sell for as much; that in his opinion, however, they add to the value of the lands on which they are situate fully as much as he has estimated the said improvements to be worth; that deponent was familiar with the value of lands in that vicinity in 1853, and that during that year the lands included within the survey by Ransom, of the half league as exhibited by his survey, would have sold in the market, in the opinion of the deponent, for at least double as much as the land embraced in the official survey, which, at the date of said survey, was almost unoccupied, and with little or no improvement upon it, but at the present time the lands included in the official survey, together with the improvements thereon, would sell for much more than the half league embraced in Ransom's survey; but in the opinion of deponent, if there were no improvements upon the lands embraced in the official survey, and none upon the half league surveyed and set apart by Ransom's survey of 1853, the latter would now sell in the market for considerably more than the former, on account of its proximity to the city, its more accessible position, and for other reasons, but for agricultural and gardening purposes the land included in the official sur-
338 vey is the more valuable because the soil is of better quality; that in 1853, whilst deponent was erecting his house on his said place, one J. G. Denniston, who married a daughter of Francisco de Haro, deceased, came to the place where deponent was, near said house, and, in conversation with deponent, stated that the heirs of said de Haro had selected their half league in the vicinity of the lake house, and pointed out to deponent from a neighboring hill the limits of said half league as selected, which corresponded with Ransom's survey of said half league, and he further stated that all the lands south of the half league so selected was public land, and that he himself had taken up or pre-empted a claim outside of the half league so selected. He further deposes that in the year 1858 he was one of the supervisors of San Mateo county, and during that year the estate of Francisco de Haro had been assessed for taxes upon that portion of the rancho Laguna de la Merced lying south of the southerly line of the city and county of San Francisco; whereupon, in the fall of that year, the said Denniston appeared before the board of equalization for San Mateo county, of which board deponent was a member, and, in the presence and hearing of deponent, requested said board to remit the said taxes, because, as he

339 alleged, no part of said rancho was situate in said county, but was wholly within the city and county of San Francisco; that in the year 1861, deponent being then one of said supervisors, and a member of the board of equalization for that year, David Mahoney, the present claimant of said rancho, applied, by his attorney, T. W. Gough, to said board to remit the greater part of the taxes assessed upon the said rancho for that year, and the delinquent taxes for prior years, on the ground that a very small part of said rancho was situate in said county; that the lands on said rancho, about one league west from the mission Dolores, are very sandy and sterile, whilst the lands in the neighborhood of the lake house, and between the two arms of the said Laguna de la Merced, are considerably sandy, but are nevertheless productive lands, well adapted to cultivation; that for a short distance southeast from the laguna, in the direction of the Portezuelo, the lands are also sandy and tolerably well adapted for raising grain, but not so good as in the vicinity of the lake house; that the lands north of the north arm of said laguna and west of the mission are very sandy and only fit for the pasturage of a
340 limited number of cattle; that the lands south and southwest of the south arm of said laguna are chiefly rolling lands, with a loamy soil, and well adapted for agricultural and gardening purposes. Deponent further states that he has no knowledge of the authority of said Gough to represent said Mahoney in respect to the taxes on said rancho, except from what said Gough said to the board of supervisors on the occasion hereinbefore referred to. The said Gough was then an attorney-at-law, and appeared as such on the occasion referred to.

R. S. THORNTON.

Sworn and subscribed to this 4 day of February, A. D. 1862.

HENRY C. HYDE, *U. S. Comm'r.*

It is hereby agreed that the foregoing statement may be read on the trial of the above-entitled cause, with the same effect as if it were a deposition regularly taken in the cause, but subject to all exceptions which may be taken thereto for any cause whatever, save only the mode of taking and certifying the same.

341 San Francisco, 3rd Feb'y, 1862.

McDOUGALL & SHARP,
Att'ys for Ass'ees of Claimants.

Endorsed: Filed, April 14, 1862.

W. H. CHEVERS, *Clerk.*

Dep. of Chas. Clark.

United States district court, northern district of California.

THE UNITED STATES
vs.
JOSEFA DE HARO *et als.*

SAN FRANCISCO, 16*th Jan'y*, 1862.

On this day, before me, Henry C. Hyde, a commissioner of the United States for the northern district of California, duly authorized

to administer oaths, &c., &c., came Charles Clark, a witness produced on behalf of the United States, in case No. 380, being an appeal from the board of commissioners to ascertain and settle the private land claims in the state of California, in case No. 102 on the docket of the said board of commissioners, and was duly sworn and testified as follows:

Present: W. H. Sharp, U. S. dist. att'y, by J. B. Crockett
342 and Tully R. Wise; and McDougal and Sharp, by W. H. Tompkins.

Questions by the United States.

Q. 1. Are you the person who was examined in this case before?

Ans. Yes, sir.

Q. 2. Have you ever been in the board of supervisors of San Mateo county?

Ans. Yes, sir; in the year 1856. I was in the board three or four months. The question of taxing the rancho of Laguna de la Merced came before the board while I was in it. James G. Dennison, who married one of the heirs of Francisco de Haro, came before the board about taxing it; I was present. James G. Dennison said that there was no land in San Mateo county belonging to the de Haro, or to the tract of the Laguna de la Merced, that the heirs would pay taxes on. He said if there was any, it was a very small piece; he did not believe there was any. He said it—that is, the rancho of Laguna de la Merced—was in San Francisco county. On account of that statement the board of supervisors, who were acting as a board of equalization, threw out the assessment as an improper one.

343 NOTE.—Counsel for claimant objects to the question as irrelevant and immaterial. It was agreed to note the objections at the end of deposition.

CHARLES CLARK.

Before me, this 16th day of January, A. D. 1862.

HENRY C. HYDE, *U. S. Commissioner.*

It is hereby stipulated and agreed that the foregoing deposition of Charles Clark be taken and considered as having been duly sworn and subscribed before said Henry C. Hyde, U. S. commissioner, 16 Jan'y, 1862.

WM. H. SHARP, *U. S. Att'y.*
McDOUGALL & SHARP,
Att'ys for Claimants,
Per W. H. TOMPKINS.

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

United States district court, northern district of California.

THE UNITED STATES
vs.
JOSEFA DE HARO *et als.*

SAN FRANCISCO, *Feb'y* 17, 1862.

On this day, before me, Henry C. Hyde, a commissioner of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came William Marr, a witness produced on behalf of the United States in case No. 380, being an appeal from the board of commissioners to ascertain and settle the private land claims in the state of California, in case No. 102 on the docket of the said board of commissioners, and was duly sworn and testified as follows:

Present: W. H. Sharp, U. S. dist. att'y, by J. B. Crockett; and Messrs. McDougall and Sharp, by W. H. Tompkins.

Questions by the United States, J. B. Crockett, Esq.

1. What is your name, age, and where do you reside?

Ans. My name is William Marr; aged 51; residence San
345 Francisco county, near the Ocean House; occupation, farmer.

2. Examine the paper now shown to you, marked "Exhibit Marr No. 1," to be annexed to your deposition, and state what it is, and whether or not you are the same William Marr whose name appears subscribed thereto.

Answer. That is the lease I received from Charles Brown some four years ago. I am the same William Marr; that is my signature.

3. State whether or not said paper was executed and delivered in your presence, and whether the signature of Charles Brown thereto is his genuine signature.

Answer. It was all drawn up, signed and sealed in my presence. Charles Brown signed it in my presence.

4. Examine the paper now shown to you, marked "Exhibit Ransom No. 1," annexed to the deposition of Leander Ransom, and point out if you can, on said map, the land embraced in the lease from Brown to you, to which you have referred.

346 Answer. It embraces the point between the two ranches of the Laguna de la Merced, including the lake house, and runs about as far towards the eastward as a pencil mark which I have drawn on the said map, from one branch of the said laguna to the other.

5. Examine the paper now shown to you, marked "Exhibit Marr No. 2," to be annexed to your deposition, and state whether or not you know the land described in the said paper; and if so, state where the same is situate; describe it by reference to "Exhibit Ransom, A No. 1."

Answer. I know the land, and it is the point of land running from the lake house westwardly between the two branches of the laguna to the bridge, and is a part of the same land embraced in the lease from Brown to me.

6. At the time you took the said lease from Brown, did you have any conversation with him as to whether or not the land embraced in said lease was a part of the de Haro rancho? If so, state what the said Brown said on that subject.

347 Answer. Mr. Brown told me it was a part of the de Haro ranch, and that in making the lease he acted as guardian for Alonzo de Haro, one of the heirs.

Examination closed.

WILLIAM MARR.

Subscribed and sworn to before me this 17th day of February, A. D. 1862.

HENRY C. HYDE, *U. S. Com'r.*

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

Exhibit Marr No. 1, *annexed to dep. of Wm. Marr.*

This indenture, made and entered into at the city of San Francisco, on the 20th day of October, A. D. one thousand eight hundred and fifty-seven, between Alonzo de Haro, by Charles Brown, of the city of San Francisco, his general guardian, of the first part, and William Marr, of the same place, of the second part, witnesseth, that the said party of the first part has letten, and by these presents do

348 grant, demise, and to farm let unto the said party of the second part, all that certain piece of land, being a neck of land running in a westerly direction from the lake house, containing, as it is supposed, about thirty acres, together with a sufficient quantity of land in front of said house to make seventy-five acres, with the privilege of the use of any house or out-houses which the party of the first part may designate, with the appurtenances, for the term of one year from the first day of November, A. D. one thousand eight hundred and fifty-seven, at the yearly rent or sum of two hundred and twenty-five dollars, payable half-yearly in equal half-yearly payments of one hundred and twelve dollars and one-half.

And it is agreed that if any rent shall be due and unpaid, or if default shall be made in any of the covenants herein contained, then it shall be lawful for the said party of the first part to re-enter the said premises, and to remove all persons therefrom. And the said party of the second part do hereby covenant to pay to the said party of the first part the said rent herein reserved, in the manner

349 herein specified, and not to let or underlet the whole or any part of said premises without the written consent of the said party of the first part; and that at the expiration of the said term, the said party of the second part will quit and surrender the premises hereby demised, in as good state and condition as reasonable use and wear will permit, damages by the elements excepted.

And the party of the first part hereby agrees to and with the party of the second part, that this lease may be renewed or extended at the option of the said party of the second part, for the term of three years.

In witness whereof, the said parties have hereunto set their hands and seals the day and year first above written.

CHARLES BROWN, [SEAL.]
G'd'an of Alonzo de Haro.
WILLIAM MARR. [SEAL.]

Signed, sealed and delivered in presence of—
Wit's: R. V. GROAT.

I, Charles Brown, the guardian of the said party of the first part in the above instrument, hereby consent that the said William
350 Marr, the party of the second part in the above instrument, shall and may assign, set over and convey the above lease, and the premises and town therein granted, to William H. Marr, his heirs, executors, administrators or assigns.

In witness whereof, I have hereunto set my hand this 18th day of May, 1858.

CHARLES BROWN,
Guardian Alonzo de Haro.

Witness: A. C. CAMPBELL.

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

Exhibit Marr No. 2, annexed to dep. of Wm. Marr.

This indenture, made and entered into at the city of San Francisco, on the thirty-first day of October, A. D. one thousand eight hundred and fifty-three, between Charles Brown, of the first part, and Robert Baker, of the second part, witnesseth, that the said party of the first part hath letten, and by these presents doth grant, demise, and to farm let unto the said party of the second part, all that lot or
351 parcel of land lying in said county of San Francisco now occupied by said Baker, being a point of land making out into Lake Merced as the said point is now fenced, reserving to said party of the first part the right to build a house upon said land, and to occupy the same during the continuance of this lease, with the appurtenances, for the term of eight months from the thirty-first day of October, A. D. one thousand eight hundred and fifty-three, at the monthly rent or sum of one dollar, payable monthly in advance, in equal monthly payments of one dollar.

And it is agreed that if any rent shall be due and unpaid, or if default shall be made in any of the covenants herein contained, then it shall be lawful for the said party of the first to re-enter the said premises, and to remove all persons therefrom. And the said party of the second part do hereby covenant to pay to the said party of the first part the said rent herein reserved, in the manner herein specified, and not to let or underlet the whole or any part of said premises without the written consent of the said party of the first part; and that, at the expiration of the said term, the said party of
352 the second part will quit and surrender the premises hereby

demised in as good state and condition as reasonable use and wear will permit, damages by the elements excepted.

In witness whereof, the said parties have hereunto set their hands and seals the day and year first above written.

CHARLES BROWN. [SEAL.]
ROBERT BARKER. [SEAL.]

Signed, sealed and delivered in presence of (with the privilege of two months more if required, at the rate of forty per month)—

Witness present at the signing and sealing of this lease—
T—— NYE.

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

Declaratory statement of Henry L. White.

353 I, Henry L. White, of San Mateo county and State of California, a single man, over the age of twenty-one years, and a native-born citizen of the United States, have, on this 22d day of April, one thousand eight hundred and fifty-nine, settled and improved the north half of the northeast quarter of section No. twelve, in township No. three south, range No. six west, of the Mt. Diablo Meridian, containing eighty (80) acres, which land has not as yet been offered at public sale, and thus rendered subject to private entry; and I do hereby give notice that I intend to claim said land as a pre-emption right, under the act of Congress of March 3d, 1853.

Given under my hand this 22d day of April, A. D. 1859.

(Signed) HENRY L. WHITE.

In presence of—
J. E. MUNSON.

U. S. LAND OFFICE,
San Francisco District.

I hereby certify that the foregoing is a true, full and correct copy of the original declaratory statement of Henry L. White, on file in this office.

Given under my hand (there being no seal used in this office)
354 this twenty-sixth day of November, A. D. 1860.

IRA MUNSON, *Register.*

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

Declaratory statement of Saml. S. White.

UNITED STATES OF AMERICA.

Declaratory statement of Saml. S. White, on land not subject to private entry.

I, S. S. White, of San Mateo county, California, being a native-born citizen of the United States, a married man, over the age of twenty-one years, have, on the 15th day of August, A. D. 1856,

settled and improved the following described government lands, situate, lying and being in the county and State aforesaid, and more particularly described as follows, viz: S. ½ of the S. E. ¼ of section 2, and the N. ½ of N. E. ¼ of section 11, township No. three south, range No. six west, in the district of lands subject to sale at the land office at San Francisco, and containing one hundred and sixty $\frac{0}{100}$
355 acres, which land has not yet been offered at public sale, and thus rendered subject to private entry; and I do hereby give notice that I intend to claim said tract of land as a pre-emption right under the provisions of the act of Congress of 3d of March, 1853, entitled "An act to provide for the survey of public lands in California, the granting of pre-emption rights therein, and for other purposes."

SAML. S. WHITE.

In presence of—
S. JOSEPH.

U. S. LAND OFFICE.
San Francisco.

I, Geo. B. Tingley, register of the U. S. land office at San Francisco, California, do hereby certify that the foregoing is a full, true and correct copy of the original declaratory statement now on file in this office.

Given under my hand (there being no seal used in this office) this 4th day of June, 1861.

GEO. B. TINGLEY, *Register*,
By J. E. MUNSON, *Clerk*.

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk*.

Declaratory statement of Franklin White.

356 I, Franklin White, of San Mateo county, California, being a native-born citizen of the United States, a married man, over the age of twenty-one years, have on the 1st day of Jan. A. D. 1858, settled and improved the following described government lands, situate, lying and being in the county and State aforesaid, and more particularly described as follows, viz: frac. 2 of sec. 1, and the N. ½ of N. W. ¼ of sec. 12, township No. three south, range No. six west, in the district of lands subject to sale at the land office at San Francisco, and containing one hundred and thirty-three $\frac{26}{100}$ acres, which land has not yet been offered at public sale, and thus rendered subject to private entry; and I do hereby give notice that I intend to claim said tract of land as a pre-emption right, under the provisions of the act of Congress of 3d of March, 1853, entitled "An act to provide for the survey of the public lands in California, the granting of pre-emption rights therein, and for other purposes."

FRANKLIN WHITE.

In presence of—
GEO. W. GIFT.

357 U. S. LAND OFFICE.
San Francisco District.

I hereby certify that the within is a true, full, and correct copy of the original declaratory statement of Franklin White, on file in this office.

Given under my hand (there being no seal used in this office) this twenty-sixth day of November, A. D. 1860.

IRA MUNSON, *Register.*

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

Declaratory statement of Henry B. Simmons.

I, Henry B. Simmons, of San Mateo county and State of California, being a single man, over the age of twenty-one years, and a citizen of the United States, have, on the tenth day of March, A. D. 1860, settled upon and improved the southeast quarter of the northeast quarter of section No. twelve, (12,) in township No. three (3) south, of range No. six (6) west of the Mount Diablo meridian, in the district of lands subject to sale at the land office at San Francisco,
358 California, and containing forty (40) acres, which land has not yet been offered at public sale, and thus rendered subject to private entry. And I do hereby declare my intention to claim the said tract of land as a pre-emption right, under the provisions of the act of the Congress of the United States of September 4th, A. D. 1841, and of the supplementary acts of March 3d, 1843, May 8th, 1846, and March 3d, 1853.

Given under my hand this tenth day of March, A. D. 1860.

(Signed) HENRY B. SIMMONS.

In presence of—
ROBERT S. THORNTON.
JEREMIAH SMITH.

U. S. LAND OFFICE,
San Francisco District.

I hereby certify that the foregoing is a true, full, and correct copy of the declaratory statement of Henry B. Simmons, on file in this office.

Given under my hand, there being no seal used in this office, this twenty-sixth day of November, A. D. 1860.

IRA MUNSON, *Register.*

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

359 *Declaratory statement of A. S. Easton.*

I, Asahel S. Easton, of San Mateo county and State of California, being a single man, over the age of twenty-one years, and a citizen of the United States, have, on the twelfth day of March, A. D. 1860, settled upon and improved the north half of the southeast quarter of

364 No. five west of the Mount Diablo meridian, in the district of lands subject to sale at the land office at San Francisco, California, and containing one hundred and eighty-five $\frac{16}{100}$ acres, which land has not yet been offered at public sale, and thus rendered subject to private entry; and I do hereby declare my intention to claim the said tract of land as a pre-emption right, under the provisions of the act of the Congress of the United States of September 4th, A. D. 1841, and of the supplementary acts of March 3d, 1843, May 8th, 1846, and March 3d, 1853.

Given under my hand this twenty day of July, A. D. 1860.

(Signed) JULIUS LEVY.

Witness: J. E. MUNSON.

U. S. LAND OFFICE,
San Francisco District.

I hereby certify that the within is a true, full, and correct copy of the original declaratory statement of Julius Levy, on file in this office.

Given under my hand (there being no seal used in this office) this twenty-sixth day of November, A. D. 1860.

IRA MUNSON, *Register.*

365 Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

Declaratory statement of P. H. Doncks.

I, Peter H. Doncks, of the county of San Mateo and State of California, being the head of a family and having declared my intention to become a citizen of the United States, have, on the 27th day of January, A. D. 1860, settled upon and improved the southeast quarter of the northeast quarter of section No. eleven, and the south half of the northwest quarter of section No. twelve, and the southwest quarter of the northeast quarter of section No. twelve, in township No. three south, of range No. six west of the Mount Diablo meridian, in the district of lands subject to sale at the land office at San Francisco, California, and containing one hundred and sixty (160) acres, which land has not yet been offered at public sale, and thus rendered subject to private entry; and I do hereby declare my intention to claim the said tract of land as a pre-emption right, under the provisions of the act of the Congress of the United States of the
366 4th September, A. D. 1841, and the supplementary acts of March 3d, 1843, May 8th, 1846, and March 3d, 1853.

Given under my hand this twenty-seventh day of March, A. D. 1860.

(Signed) PETER H. DONCKS.

In presence of—

GEORGE L. SMITH,
A. S. EASTON.

U. S. LAND OFFICE,
San Francisco District.

I hereby certify that the within is a full, true, and correct copy of the declaratory statement of Peter H. Doncks, on file in this office.

Given under my hand (there being no seal used in this office) this twenty-sixth day of November, A. D. 1860.

IRA MUNSON,
Register.

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

Declaratory statement of Jeremiah Smith.

I, Jeremiah Smith, of the county of San Francisco, State of California, being the head of a family, over the age of twenty-one years, a citizen of the United States, have, on the twenty-second day of December, A. D. 1853, settled and improved the south half of the northwest quarter of section eleven, and also the southwest
367 quarter of the northeast quarter of section eleven, in township three south, range six west, in the district of lands subject to sale at the land office at Benicia, and containing one hundred and twenty acres, which land has not yet been offered at public sale, and thus rendered subject to private entry; and I do hereby declare my intention to claim the said tract of land as a pre-emption right, under the provisions of the act of 3d March, 1853.

Given under my hand this 27th Dec'r, 1853.

(Signed) JEREMIAH SMITH.

In presence of—
ROBERT S. THORNTON,
WM. M. EDDY.

UNITED STATES LAND OFFICE,
San Francisco District.

I hereby certify that the foregoing is a full, true, and correct copy of the original declaratory statement of Jeremiah Smith, on file in this office.

Given under my hand (there being no seal used in this office) this twenty-sixth day of November, A. D. 1860.

IRA MUNSON,
Register.

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

368 *Declaratory statement of A. J. Van Winkle.*

I, A. J. Van Winkle, of San Mateo county and State of California, being the head of a family and a citizen of the United States, have, on the fifteenth day of February, A. D. 1856, settled upon and

improved the south half of the southwest quarter of section No. twelve, and the northeast quarter of the northeast quarter of section No. fourteen, and the northwest quarter of the northwest quarter of section No. thirteen, in township No. three south, of range No. six west of the Mount Diablo meridian, in the district of lands subject to sale at the land office at San Francisco, California, and containing one hundred and sixty (160) acres, which land has not yet been offered at public sale, and thus rendered subject to private entry; and I do hereby declare my intention to claim the said tract of land as a pre-emption right, under the provisions of the act of the Congress of the United States of September 4th, A. D. 1841, and of the supplementary acts of March 3d, 1843, 8th May, 1846, and 3d March, 1853.

Given under my hand this 20th day of July, A. D. 1860.

(Signed) A. J. VAN WINKLE.

In presence of—
M. F. GAME.

369 U. S. LAND OFFICE,
San Francisco District.

I hereby certify that the within is a true, full, and correct copy of the original declaratory statement of A. J. Van Winkle, on file in this office.

Given under my hand (there being no seal used in this office) this twenty-sixth day of November, A. D. 1860.

IRA MUNSON,
Register.

Endorsed: Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

Notice that proofs on part of U. S. are closed.

District court of the United States for the northern district of California.

UNITED STATES
vs.
JOSEFA DE HARO *et als.* } No. 380 D. C.—102 L. C.

You will please to take notice that the proofs on behalf of the United States in respect to the survey in the above-entitled cause are closed.

San Francisco, 24th Feb'y, 1862.

WM. H. SHARP,
U. S. Att'y.

To Messrs. MCDOUGALL and SHARP,

370 SSEBBINS & TOMPKINS,
Atty's for Claimants.

Endorsed: Received, San Francisco, Cal., 24th Feb'ry, 1862, due and legal service of a copy of the within notice. McDougall and Sharp, Stebbins and Tompkins, atty's for claimants.

Filed April 14, 1862.

W. H. CHEVERS, *Clerk.*

Opinion rejecting survey and ordering new survey.

U. S. district court, northern district of California.

THE UNITED STATES
vs.
JOSEFA DE HARO *et al.*

I do not deem it necessary to consider at any length the argument presented on behalf of the claimants, by which it is sought to prove that the whole tract delineated on the diseño should have been confirmed, and not merely half a league, to which their claim
371 was restricted. The point was considered and decided by the board, and that decree has become final; nor have any objections to the survey been filed by the claimants, on the ground that it embraced only half a league, as required by the decree, and not the much larger quantity delineated on the diseño.

That the decree of the board was correct cannot be for a moment doubted. The original petition of Galindo describes the land as one league in length by half a league in breadth. The witnesses, whose testimony was taken by order of the governor, variously estimate it as of the extent of "one league in length by half a league in breadth;" "three-quarters of a league in breadth;" and one "league in length by half a league in breadth in some places, and a quarter of a league in others;" and in the fourth condition describes it as of a length equivalent to half a league, directs it to be measured, and reserves the surplus.

In the deed from Galindo to de Haro, the ancestor of the claimants, the land is described as "one league in longitude;" and the wife of de Haro, in a subsequent petition to the governor for an augment or extension, expressly states to him that the land
372 purchased by her husband from Galindo was only half a league in extent, and was therefore too small, etc. As this petition was never acted upon, and the only title of the claimants is derived from the grant to Galindo, it is plain that their pretension to any larger extent than half a league is wholly inadmissible.

The only question in the case is as to the location within the exterior limits of the half league confirmed to the claimants.

It appears that, when the case was pending before the board, a preliminary survey was made, at the suggestion of the claimants, by John C. Hayes, esq., surveyor general. On this survey the whole tract delineated on the diseño was run out, and the plat was then furnished by the surveyor to the administrator of the estate of the deceased, de Haro, who seems to have been conducting the litiga-

tion, with a request that the parties would designate the particular half league which they claimed under the grant. The administrator referred the matter to Brown and Denniston, who had married heirs of de Haro, who marked out the half league on the plat, returned it to the surveyor, and then went with him on the ground, and
373 the lines were run out and laid down on the plat. The plat, survey and field-notes were filed in the cause by the surveyor general, at the request, as he states in his communication to the board, of the attorneys for the claimants.

Immediately after these proceedings Brown and Denniston openly proclaimed that the lands outside of the half league so selected were public lands. They took up and recorded a claim to a portion of those lands, and advised others, who are now settled on the lands, to do the like. Brown, as guardian for one of the heirs, leased some hundreds of acres of land embraced within the half league, and having subsequently mortgaged the same land, a foreclosure was had, and it is now held under that title. It appears also that Denniston and wife conveyed the same land to one Andrews, whose interest is now said to be vested in Mahoney, the present claimant of the whole tract within the exterior boundaries.

It also appears that, in 1853, the surveyor general, considering the designation of the half league referred to as an election by the claimants, caused outside lands to be surveyed and sectionized as public land; and numerous settlers, relying upon these cir-
374 cumstances, have entered upon the land in good faith, taken up pre-emption claims, paid their money, received certificates, and have erected improvements said to be worth more than $75,000.

It is now sought to change the location of the one-half league, and, abandoning the land previously selected, and in part sold and mortgaged by Brown and Denniston, to locate anew, so as to include the lands occupied and improved as above stated.

The survey made in accordance with the recent wishes of the present claimant of the whole title has been objected to on the part of the United States.

It is objected on the part of the claimants that the settlers, as such, have no right to intervene in this proceeding, and an elaborate argument has been made to show that they had no right, until after the quantity granted was segregated by competent authority, to enter upon any lands embraced within the exterior limits of the grant. But it is sufficient to observe, in reply, that the exceptions to this survey are filed by the United States, and not by the settlers.

The United States have certainly the right to be heard in opposition to any survey or location which the district attorney may
375 deem unjust; and this, whether it be desired to protect the interests of present or future claimants under the pre-emption laws, or merely the rights and interests of the government itself.

The very terms of the act of 1860 require that "all persons claiming interests under pre-emption settlement, or other right or title derived from the United States, shall be represented by the district attorney, intervening in the name of the United States." It cannot

be denied that the persons in whose behalf the district attorney has intervened in this instance claim "a right or title from the United States." But, as before intimated, even if there were no settlers on the land, or any private interests concerned to correct the location, the United States, through the district attorney, have clearly the right to protect the public interests, and to prevent injustice by procuring a proper location of the grant.

The more important question remains, Can the claimants now be permitted to abandon the location selected as above stated, and float the grant to such portion of the land as may suit their present convenience or interests?

376 Had the grant belonged to a single individual, by whom an election was made as above described, the point would have been too clear for argument. It is said, however, that some of the heirs of de Haro were minors, and therefore could not have assented to the election.

It appears that for some time after the death of de Haro, his title papers were in the hands of Julius K. Rose, esq., who probably had the general management of the estate. On the 30th July an informal paper was executed by the heirs of de Haro, by which the administration of the estate was confided to Ramon de Zaldo. This paper was signed by Josefa de Haro, the widow Rosalia Brown, (by her husband, C. Brown,) Prudencia de Haro, and Candelaria and Carlota de Haro. De Zaldo was also appointed the guardian of Candelaria and Carlota de Haro, while Charles Brown was guardian of the boy, Alonzo.

In the exercise of the trust thus confided to him, de Zaldo employed counsel to present the case to the board, and at their suggestion the survey was made and the land designated by Brown and Denniston, who had married the daughters of de Haro.

377 De Zaldo testifies that he had no reason to suppose that the heirs of de Haro were dissatisfied with the survey, and assigns three reasons for supposing that they were, in fact, satisfied with it:

1. Their having pointed out the lines.
2. Their pre-empting lands outside of the boundaries.
3. That he had in his possession a document, sworn to by their father, describing the identical land as his own.

There is necessarily some difficulty in cases where a rancho is owned by a large number of persons, in obtaining the consent of all to the election of any particular tract. As the land must ordinarily be surveyed in a compact form, and in one entire tract, the choice of majority in interest, it would seem, ought to govern; and where, as in this case, the designation has been made and acted upon by the representatives of two of the principal heirs, one of whom was also guardian for another heir, and with the full knowledge and acquiescence of the adminstrator of the estate, who was also guardian for two of the heirs, and by whom the attorneys to proscute the claim were employed.

When the land outside the portion selected has been section-

378 ized by the United States, and taken up by settlers in good faith, without objection or remonstrance on the part of any of the claimants, and when the election appears to have been fairly made, and in the interests of all concerned, it appears to me that the United States have a right to insist that it shall be final and conclusive; and that settlers, who have in good faith acquired inceptive titles to other portions of the tract, should not be deprived of their titles and their improvements by a change in the location of the grant.

I think, therefore, that the official survey should be set aside, and a new one made in conformity with the survey by Leander Ransom, filed before the board of land commissioners.

Endorsed: Filed June 13, 1862.

W. H. CHEVERS, *Clerk.*

Order rejecting survey and ordering new survey.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Wednesday, the eighteenth day of June, in the year of our Lord one thousand eight hundred and sixty-two.

379 Present: The honorable Ogden Hoffman, district judge.

THE UNITED STATES *v.* JOSEFA DE HARO *et als.* } No. 380.—L. C. 102.

This cause came on to be heard on exceptions to the official survey of the land confirmed, filed November 22d, 1859, and counsel for the respective parties having been heard and due deliberation had in the premises, it is by the court hereby adjudged, ordered and decreed, that the said exceptions be and they are hereby sustained, and that said official survey be and the same is hereby rejected as erroneous.

And it is further ordered that the surveyor general of the United States for California cause a new survey of the land confirmed to be made without delay, and return a certified copy plat thereof to this court for its approval.

And it is further ordered that the said survey shall be made in accordance with the election of the claimants made in 1853, as evidenced by the plat and field-notes of a survey of said lands made by Leander Ransom, United States deputy surveyor, in 1853, on file in this

380 cause; and the said survey shall include the quantity of a half square league and no more, and shall conform as nearly as may be to the said survey of the said half league made by said Ransom, as aforesaid.

It is further ordered that a certified copy of this order be served upon the said surveyor general by the U. S. marshal.

OGDEN HOFFMAN,
U. S. Dist. Judge.

Endorsed: Filed June 18, 1862.

W. H. CHEVERS, *Clerk.*

Petition for rehearing by claimants, &c.

In the district court of the United States for the northern district of California.

THE UNITED STATES
v.
JOSEFA DE HARO *et al.*
} No. 380.

The petition of Josefa de Haro and others, claimants, and of David Mahoney, intervenor herein, by their attorneys, respectfully
381 shows, that on the 13th June last the opinion of the court was filed in the above-entitled cause, rejecting the official survey of the land confirmed, and directing a new survey to be made in accordance with preliminary survey made by Leander Ransom, and that an order in pursuance of said opinion has been duly entered.

That your petitioners respectfully ask for a rehearing of the cause as to so much of the opinion of the court relating to the election by the claimants of the half league confirmed.

That your petitioners are prepared to prove that the claimants never elected any specific tract or quantity of land within the tract embraced by the Ransom survey, nor vested in any one the authority to do so, but have persistently claimed a confirmation and survey to boundaries; and that so far as exterior boundaries are concerned, they admit the Ransom survey of the whole tract as correctly showing the exterior boundaries of the land claimed.

And your petitioners aver, and are prepared to prove, that the alleged selection of the quantity confirmed, made by de Zaldo, and the alleged survey by Ransom of that quantity, were made in fraud of the rights of the claimants under no authority from them,
382 and for the direct pecuniary advantage of the said Ransom and de Zaldo, who made such selection and survey for the purpose of locating school land warrants on the surplus land; such warrants to be furnished, and were furnished, by Felix Argenti, now dec'd.

That your petitioners never have exercised their right of election, having always contended for boundaries ; and that the official survey does not show any election of your petitioners, either express or implied, having been located under the decree of confirmation which directed the surveyor general to have due regard for the house of Galindo, the original grantee, which said house was located near the Buriburi line.

That your petitioners do not desire a rehearing on the question of quantity, but they aver, and can prove, that no election of any specific tract has ever been made; that neither the Ransom nor official survey show such election; the so-called Ransom election having been fraudulently made, and the official survey made under the decree of confirmation which established one certain point, to wit, the house of Galindo, on the Buriburi line. And your petitioners aver that
383 however their election may be controlled by sales, mortgages, or otherwise, yet that the Ransom survey, as a whole, is not and never has been the election of the claimants, and that if they are entitled to any election that such election is yet to be made.

And your petitioners aver that the sectionizing of the land outside of the so-called selection of de Zaldo was a proceeding entirely unauthorized by the instructions of the Interior Department, and in fraud of the rights of the claimants, and that said land was sectionized, not in the regular course of business in the surveyor general's office, but for the purpose of fraudulently locating school land warrants. Reference is here made to the annexed affidavit of Edward Conway, and to Exhibits "A," "B" and "C," annexed thereto; Exhibit "C" being the draft of an agreement between Ransom, de Zaldo and Argenti respecting the location of the said warrants on the sectionized land, said agreement being in the handwriting of Leander Ransom.

And your petitioners aver that during the progress of the cause before the board their claim was prosecuted for a confirmation to boundaries, and that although a preliminary survey of the ex-
384 terior boundaries appeared to be necessary in pursuance of the practice then in vogue, yet it was not required, and in the nature of the cause could not have been required, of the claimants to make an election before a confirmation of *some land* had been decreed, and that the action of de Zaldo in selecting the half league was in excess of any authority vested in him by claimants. Reference is here made to the affidavits of Clarke and Taylor and of Horace Hawes. hereto annexed; and also to translation of Exhibits "A" and "B," to deposition of de Zaldo; also to affidavit of Josefa de Haro and others, claimants, &c.

And your petitioners further show that at the time the Ransom survey was made, the claimants, Josefa de Haro *et al.* six in number, were all minors but two, and those two were married women, under the control of their respective husbands; and that neither De Zaldo nor their attorneys-at-law, nor the husbands of the two married heirs, had power to bargain away or waive the legal rights of the heirs
385 in the premises; nor did the heirs ever authorize any or either of them to waive any of the legal rights of the claimants.

And your petitioners, the claimants, heirs of de Haro, dec'd, most earnestly pray for a rehearing, in order that they may take the evidence at their command, showing the fraudulent proceedings of the said de Zaldo and de Zaldo and Ransom in the matter of the preliminary survey, and that the real action of the heirs may be satisfactorily shown to the court.

And your petitioners are advised that they desire a rehearing on the law as well as the facts.

1st. That if the decree of confirmation was of a half league within certain exterior boundaries, then no election could be made until an official survey was had.

2nd. That if said decree was for a specific half league, then there was no election, nor could any have been exercised in any stage of the case.

386 3rd. That if the matter of quantity and location was considered by the board, their decree and the decree of this court is final under the dismissal of appeal by the United States.

4th. That if not final, then the election of the claimants must be controlled by the first settlement or house of Galindo and the first house of de Haro, both of which are excluded from the so-called de Zaldo election, and as shown by the diseño presented by the family for an augmentation.

Wherefore, your petitioners pray that this petition be certified, and that a reasonable time be allowed for the taking of testimony in the premises.

And your petitioners will ever pray, &c.

McDOUGAL & SHARP & TOMPKINS,
Att'ys for Claimants.

387 U. S. district court.

THE UNITED STATES
vs.
JOSEFA DE HARO *et al.* } No. 380.

NORTHERN DISTRICT OF CAL'A, *ss:*

Edward Conway, being duly sworn, deposeth and saith that he is chief clerk in the office of the U. S. surveyor general for the district of California, and has been such since July 1st, 1859; that the annexed exhibit, marked A, is a correct copy of the instructions referring to the subdivision of lands bordering on private land claims on file in this office from the Commissioner Gen'l Land Office, Washington; that these instructions have been since the date thereof, and are still the sole governing rule in such cases; that the annexed exhibit, marked B, is a correct copy of a letter from the sur. gen'l to the Comm'r Gen'l Land Office, referring to the survey executed of the rancho "Laguna de la Merced," under the final decree of the district court for their decision, the same setting for the views of the office based upon said decree of U. S. dist. court, which decree called the attention
388 of the surveyor gen'l to the fact that the house or settlement of the original grantee, Galindo, should be included in the survey, which settlement was found and reported by the deputy to be near the Buriburi line; that said survey was approved as being in strict accordance with said decree of the U. S. district court, and for the reasons set forth in said letter, and no other; that the annexed exhibit, marked C, is a paper in the handwriting of Leander Ransom, formerly chief clerk in the office of the U. S. sur. gen'l, found by me amongst the papers in the chief clerk's desk, now occupied by me, and which, being referred to the sur. gen'l, I was ordered to retain the same, the said sur. gen'l remarking that the perusal thereof only further satisfied him as to the location of the survey being properly made under said decree.

E. CONWAY.

Subscribed and sworn to before me this 30th day of June, A. D. 1862.

HENRY C. HYDE,
U. S. Com'r.

389 *Exhibit "A" referred to in preceding affidavit.*

GENERAL LAND OFFICE,
November 28th, 1855.

Sir: In reference to certain questions and difficulties orally suggested by you at this office, respecting the survey of "private land claims" in California, the following is presented for your information and government:

4th. Where the record and decree of final confirmation fix the area claimed—thus, for example, 4 "sitios de ganado mayor," or square leagues—and the figurative plan or map delineative of the limits gives a surface much larger than the area confirmed, the location is to be taken within that surface in a compact form according to the lines of the public surveys, at the election of the confirmee, as to the precise locality, but in such a manner whenever practicable as not to interfere with any adverse claim. Where this is not practicable consistently with the calls of the confirmation, the law is explicit as to the proceedings for the settlement of the conflict. * *

390 5th. In any case of this class the surveyor general should make a formal demand upon the confirmee to give in writing a specific designation of the locality he may elect within the extended limits indicated by the plat in the record, and a period should be fixed within which he should be required to make his election. In default of compliance, it will be the duty of the surveyor general to exercise his sound judgment in fixing the location, having due regard to the rights of the confirmee and in conformity to the record. * * *

7th. In regard to claims which have been confirmed by the board of land commissioners or by the U. S. dist. court, but pending on appeal, the question is presented. What action is the sur. gen'l to have in regard to them? If not within the range of his regular surveying operations he is not called upon to take any action whatever, but must let cases of that class remain until a final decree shall have been rendered; then, if such final decree is one of confirmation, your line of duty is already indicated; if one of rejection, the

391 lines of the public surveys are to be extended over such rejections, without any regard to their alleged locality.

8th. If, however, in the gradual progress of the public surveys, the sur. gen'l approaches the location of a claim not finally confirmed, but which has been acted upon by either the board of land commissioners or the U. S. dist. court, and is still pending on appeal, it will be his duty, where the exterior lines of such claim are clearly defined, (* * * *, 8*a* * * *,) to close the lines of the public surveys, *on or near its exterior*, by legal subdivisions at such points, either within or without the lines of such claim as will most nearly approximate its alleged boundaries; but where the boundaries are not clearly defined, a similar course of proceeding should be taken as indicated under the 5th head in the foregoing.

The lands covered by claims of this class are to be distinctly designated on the township plats by dotted lines or shading, and

special reference to and designation of the claim by its No. and date; the action had upon it by the land board or the courts should also appear on the face of the plat.

392 The lands thus designated will be held in reserve, as covered by unconfirmed claims, until a decree shall have been rendered, either of confirmation or rejection, in reference to the points of inquiry presented in the memorandum filed by you.

Exhibit "B" referred to in affidavit of E. Conway.

UNITED STATES SURVEYOR GENERAL'S OFFICE,
San Francisco, Cal'a, Nov. 19th, 1858.

SIR: I herewith forward the following documents referring to a protest against the final survey of the rancho "Laguna de la Merced," executed by Deputy Matherson, under instructions from this office, viz:

A. Traced copy of final survey.
B. Copy of grant, diseño, and testimony.
C. Copy of decree of district court.
D. Brief of contestants, with maps, protests, &c.

The facts of the case are as follows:

A preliminary survey was had of said rancho, "at the re-
393 quest of the attorneys of the heirs of Francisco de Haro, under instructions from this office. Ramon de Zaldo, acting as executor or administrator of the estate of Francisco de Haro, selected a location, as set forth in map marked A; a copy of the plat and field-notes of such preliminary survey, showing the exterior lines of the diseño and the location by said de Zaldo, was filed in the office of the board of land commissioners on the 24th of June, 1854.

The lines of public surveys were extended over the other portion of the original diseño before the decision of the board of land commissioners, or final vacation of appeal in the matter of said rancho, was had.

The decree of the board of land commissioners was filed on the 24th July, 1855, which, after reciting the quantity as being of one-half a league of land extending one league from north to south, and half a league from east to west, "states" to be located according to the calls of the original grant, and within the limits delineated on the map contained in the espediente, to both of which reference is hereby made for a more particular description, regard "being also had to the actual occupation of the original grantee and the
394 ancestor of the present claimants."

The district court, in its final decree, reiterates the decision of the board of land commissioners, as above set forth.

The protestants contend that the selection by de Zaldo, executor, &c., was final, and that the subsequent action of the U. S. in subdividing and selling the land is conclusive.

The surveyor general, in his final survey, must be governed strictly by the final decision of the competent court.

I would state that I can find no authority in the statutes of the

State of California empowering an executor or administrator to make a selection of this character.

From a careful examination of the case, the laws of the U. S., and the regulations of the department, I have arrived at the following conclusions:

1st. That the selections of any location by the said executor was unwarranted until a final decree was first obtained from some competent court prescribing the boundaries within which the party might, under the instructions of the general land office, make a selection, or, in other words, the selection must follow the final decree, or be recognized by it.

2d. That although the preliminary survey and selection of
395 location was on file for some 13 months in the office of the board of land commissioners previous to their decision, yet they ignored its existence, and specifically decree *how and where* the rancho was to be located, and the district court finally affirmed the same.

3d. That the extension of the subdivision lines over the remainder of the tract embraced within the diseño was an error, and in contravention to instructions, and the sale thereof forbidden as being clearly embraced within the limits of a private grant not then finally acted upon by the competent court.

4th. That the final decree of the district court has been strictly complied with by Deputy Matherson in the execution of his survey. In accordance with instructions, dated March 3rd, 1858, I would refer this peculiar case to the consideration of the department.

I am, sir, very respectfully, your ob't servant,

J. W. MANDEVILLE,
U. S. Surveyor General.

Hon. THOS. A. HENDRICKS,
Com'r, Gen'l Land Office, Washington, D. C.

396 *Exhibit "C" referred to in the affidavit of E. Conway.*

Ramon de Zaldo and Leander Ransom, of San Francisco, California, having furnished me with information as it regards vacant lands lying between the rancho "Buriburi" and Laguna de Merced, as recently surveyed, and also furnished me with maps and charts of said land, whereby I am enabled to locate school warrants thereon, this is to certify that I have this day agreed to furnish school warrants to the amount of two thousand acres, and locate the same on said land, if that amount can be located on said vacant land; and whenever they shall demand it, I agree to transfer our interest in said land to them in the following proportions; one-third to Leander Ransom, and one-third to said de Zaldo, they paying to me, when the transfer shall be made, one-third, each, of the cost or value of the said school warrants.

We shall therefore be interested equally in the land as aforesaid.

397 District court of the United States, northern district of California.

THE UNITED STATES }
vs.
JOSEPH DE HARO *et al.* }

STATE OF CALIFORNIA.
Northern District, ss:

Joseph de Haro Denniston, Rosalia de Haro Brown, Natividad de Haro Tissot, Prudentio de Haro, Carlotta de Haro Denniston, Candelaria de Haro Prusot, and Alonzo de Haro, being severally and duly sworn, each for himself and herself says, that these affiants are heirs of Francisco de Haro; deceased, and constituted all of the heirs of said Francisco de Haro that affiant knows the rancho Laguna de la Merced, and the extreme boundaries thereof; that the external boundaries of said Rancho : are on the south by the Buriburi rancho and of the rancho San Pedro; on the west by the Pacific ocean; on the east by the Rancho la Visitacion and San Miguel; and on the north by a line running east and west through the centre of the Laguna Honda to the Pacific ocean.

That said Francisco de Haro at the time of his death was
398 the owner and in possession of the rancho "Laguna de la Merced," and every part thereof within the external boundaries of said rancho.

That affiant did not at any time make, or authorize to be made, any election or selection of a half league of land within said external boundaries of said rancho, and never knew or heard of any such selection having been made, and was never called upon or had any opportunity of making any such selection. That affiants never at any time authorized Ramon de Zaldo, or Leander Ransom, or Clark, Taylor and Beckh, or James G. Denniston, or Charles Brown, or any or all of them, or any other person or persons, to make any selection for said heirs, or any of them, of a half league of land within the external boundaries of said rancho.

That affiants were never consulted with reference to any survey of said rancho made by said Ransom, or de Zaldo, or Clarke, Taylor and Beckh, and was never present at any such survey, and never saw any map or plat of any such survey, and never approved of any such survey. Affiant further says that the said heirs always contended before the board of land commissioners, and before this court
399 in this cause, and always claimed and insisted. that the grant to the said rancho Laguna de la Merced covered all of the land within the external boundaries of said rancho, and employed counsel to contend for the same, and said counsel, as affiant is informed and believes, have so contended, in accordance with the instructions from said heirs. That the said heirs have never at any time claimed less than the whole of the land within the external boundaries of said rancho, and have always been advised and earnestly believed that

they were entitled under said grant to the whole of the land within the said external boundaries.

JOSEFA DE H. DENNISTON,
CARLOTA DENNISTON,
ALONZO DE HARO,
ROSALIA BROWN,
NATIVIDAD DE HARO TISSOT,
PRUDENCIO $\overset{\text{his}}{\underset{\text{mark}}{\times}}$ HARO.

Sworn to and subscribed before me this 28th day of June, A. D. 1862.

CHARLES F. GALAN,
[SEAL.] *Notary Public.*

Sworn and subscribed before me this 30th day of June, A. D. 1862.

CHARLES F. GALAN,
[SEAL.] *Notary Public.*

400 United States district court, northern district of California.

THE UNITED STATES
vs.
JOSEFA DE HARO *et al.*

NORTHERN DISTRICT OF CALIFORNIA,
City and County of San Francisco, ss:

Jeremiah Clarke and E. W. Taylor, being severally and duly sworn, deposes and says upon oath, each for himself—

That affiant was a member of the law firm of Clark, Taylor and Beckh, who presented the claim in the above named-cause to the board of United States land commissioners. That according to the best recollection of affiant, the said firm, during the time they were connected with the prosecution of said claim of the heirs of Francisco de Haro, dec'd, had no personal conference with any of said heirs in relation thereto, or to the land therein claimed, but said firm communicated and conferred in relation to the same altogether with Ramon de Zaldo. That affiant was never, nor was said firm at any time, authorized by said heirs to select, and never did select,
401 or intended to select, any particular half league of land within the exterior boundaries of the rancho Laguna de la Merced for said heirs as and for the land claimed under the title papers presented in this cause.

J. CLARKE.
E. W. TAYLOR.

Subscribed and sworn to before me this 1st day of July, A. D. 1862.

T. B. MERRY,
Notary Public in and for City and County of San Francisco.

United States district court, northern district of California.

THE UNITED STATES
vs.
JOSEFA DE HARO *et al.*

NORTHERN DISTRICT OF CALIFORNIA,
County of San Mateo, ss:

Horace Hawes, being of lawful age and duly sworn, deposeth and saith, on oath, that he is by profession an attorney and counsellor at law, and is and has been duly authorized and licensed to practice in the various courts, State and federal, in this State ever since
402 the first organization of said courts; that deponent was professional employed and retained as counsel to advocate before the U. S. board of land commissioners and the U. S. district court of the northern dist. of California the claim of the heirs of de Haro, in the above-entitled case, to the tract of land known by the name of "Laguna de la Merced;" that deponent, not having his papers before him at this moment, is unable to state the precise date of such retainer, but it was before the testimony in the case was closed, and before the case was argued or submitted to the said board of land commissioners for decision. And deponent saith that both before the said board and before the said district court the said heirs of de Haro continued to claim and insist upon a confirmation of all the land embraced within the exterior boundaries of the said tract of land, as designated in the original grant to Galindo and the diseño, or plan, contained in the espediente, and that they were not limited to the quantity of half a sitio de ganado mayor, or half a square league of land, and deponent, as claimants' counsel, earnestly advocated
403 their right thus insisted on to all the land in the tract without limitation of quantity to the exterior boundaries aforesaid, and never, at any time as such counsel, or otherwise, conceded or believed that the said claimants were entitled to less than the whole tract they claimed, except under the final adjudication of the said courts.

And deponent further saith that he is not aware and does not believe that the said claimants at any time made any selection of a half league or any portion of said tract less than the whole, as and for the land originally granted and then claimed by them; but those with whom deponent consulted insisted upon their right to the whole tract as aforesaid.

And deponent further saith that the map called the Ransom survey was filed in the cause before the land commissioners, before the final hearing, without deponent's knowledge or consent, and, so far as deponent knows and believes without the knowledge or consent of any one of the claimants, or of any one authorized to act for them in the cause. Deponent does not know under what circumstances or at whose instance the said survey was made, or whether it was or was not at any time satisfactory to anybody who may have employed the surveyor
404 to perform the work; but deponent does know that from the time that it made its first appearance in the cause it was wholly

repudiated by the claimants' counsel. Deponent, of course, does not apply this last statement to what may have transpired since the final decree of confirmation was entered the district court, since which date deponent has had but little knowledge of the case. Further deponent saith not.

HORACE HAWES.

Subscribed and sworn to before me this 1st day of July, A. D. 1862.

H. A. SCOFIELD,
Notary Public for San Mateo County.

NORTHERN DISTRICT OF THE STATE OF CALIFORNIA,
County of San Mateo, ss:

I, H. A. Scofield, a notary in and for the county of San Mateo, State of California, duly commissioned and sworn, hereby certify that the annexed affidavit was duly signed and sworn to before me this first day of July, A. D. 1862.

[SEAL.]

H. A. SCOFIELD,
Notary Public in and for San Mateo County.

405 *Translation of Exhibit "A" to depo. of de Zaldo.*

Translation of the Bolsas.

SEÑOR JUSTICE OF THE PEACE: Suple'nte, Francisco de Haro, a resident of this jurisdiction, appears before your honor and represents that he knows extra-judicially that upon the lands of his rancho (on the Bolsas) there are being pastured a number of horses, belonging to Don Ramon Carrillo, and through the Sergeant Nasario Galindo he has also learned extra-judicially that the neophyte who has had charge of the same is aware of this fact, as well also as the servant in charge of said horses. Wherefore he asks that the neophyte be examined in relation to the circumstances under which said stock has been introduced upon said land; that he (the petitioner) is prepared to prove by the title and map that the Bolsas, upon which it is said the stock has been for some days, is his (the petitioner) property.

Wherefore he prays your honor to proceed in the matter in accordance with justice, in which he will receive favor, swearing, &c.

406 Establishment of Dolores, Oct'r 2d, 1842.

(Signed) FRANCISCO DE HARO.

A true copy:
H. W. SPENCER.

Translation of Exhibit "B" to depo. of de Zaldo.

The undersigned, legitimate children of the late Francisco de Haro, Q. E. P. D., (may rest in peace,) in the mission of Dolores, to-day, the 30th of June, 1851, hereby appoint Don Ramon de Zaldo administrator of the estate of our late father, he being qualified under the law, and meriting our confidence. Wherefore Don Julius K. Rose,

who has been acting as administrator up to the present time, will cease to exercise said office, and for the purpose of expressing our will in the matter, we execute the present before the assisting witnesses, Don José de Jesus Noe, and Don Roberto T. Ridley.

407 District court of the the United States, northern district of California.

THE UNITED STATES
vs.
JOSEFA DENNISTON *et al.*

NORTHERN DISTRICT OF CALIFORNIA,
City and County of San Francisco, ss:

James G. Denniston, being of lawful age and duly sworn, deposes and says that he is the husband of Josefa Denniston, (formerly Josefa de Haro,) one of the children and heirs of Francisco de Haro, deceased; that affiant knows the rancho Laguna de la Merced; that the external boundaries of said rancho are on the south by the ranchos Buriburi and San Pedro, on the east by the ranchos San Miguel and La Visitacion, on the west by the Pacific ocean, and on the north by a line running east and west through the centre of Laguna Hondo, to the Pacific ocean; that said Rancho de la Merced is situated partly in the county of San Mateo, and partly in the city and county of San Francisco; that affiant has been intimately acquainted with the heirs of Francisco de Haro, deceased, ever since his intermarriage with said Josefa—that is to say for the past ten years; that affiant was
408 not present when Leander Ransom surveyed the external boundaries of said rancho, although present at the time of the survey of the half league, had nothing to do with the survey of the half league of land, commonly called the "Ransom survey," and did not point out the lines of said survey; that so far as affiant has any knowledge or information on the subject, neither the said Josefa nor any of the heirs of said Francisco de Haro, deceased, ever selected or authorized the selection of any half league of land within said external boundaries; that said heirs have always since affiant knew them, claimed and insisted that they were entitled to all of the land within the said external boundaries of said rancho, under the title papers presented in this cause, and never during that time claimed anything less than the whole of said land; that affiant never had any authority from any of said heirs to make or assist in any selection of a half league of said land, and never assumed to select, and never did select or aid in selecting, and never intended to select ny particular half league of land within said external boundaries, as and for the land of said heirs. Affiant further says that it is true that
409 he did file a notice of pre-emption of 320 acres of the land within the said external boundaries, but affiant says that the same was done by him without the knowledge, and against the consent of said heirs; that affiant was induced to file said notice of pre-emption solely for the reason that from what affiant heard, and believed

at the time, various persons, including Ramon de Zaldo were about to swindle the said heirs out of the best part of said rancho; and affiant, being ignorant of how to prevent the same, concluded that it was best for him personally to have the said 320 acres of land than to allow other persons to take it, and for that reason affiant gave said notice of pre-emption, and for no other; and that the same was done by this affiant for his own benefit, and without consulting any of said heirs; that some time thereafter, in the month of November or December, 1853, affiant seeing in the newspapers a publication of a notice by Wainwright and Randall, auctioneers, in the city of San Francisco, for the sale of sixteen hundred acres of land within said external boundaries, and not included in the so-called Ransom
410 survey, affiant, at the request of some of the heirs, attended at the time fixed in said notice for said sale, at the office of Wainwright and Randall, and publicly protested against said sale, and notified and proclaimed publicly to all persons then present, including said auctioneers, that said land was a part of the Rancho de la Merced, and belonged to the heirs of Francisco de Haro, deceased, and that the sale was unauthorized by the said heirs; and for that reason the said land was withdrawn from sale; that affiant was then informed by Felix Argenti that said 1,600 acres was then about to be sold for and on account of himself, Ramon de Zaldo, and Leander Ransom, being the same, or a portion of said land covered by land warrants.

JAMES G. DENNISTON.

Sworn and subscribed before me this 1st day of July, A. D. 1862.

WM. PARKER.

[SEAL.] *Notary Public.*

411 District court of the United States, northern district of California.

THE UNITED STATES
vs.
JOSEFA DENNISTON *et al.*

NORTHERN DISTRICT OF CALIFORNIA,
City and County of San Francisco, ss:

Charles Brown, being of lawful age, and duly sworn, deposes and says, that he is the husband of Rosalia de Haro Brown, (formerly Rosalia de Haro,) one of the children and heirs of Francisco de Haro, deceased; that affiant knows the rancho Laguna de la Merced; that the external boundaries of said rancho are on the south by the ranchos Buriburi and San Pedro; on the east by ranchos San Miguel and La Visitacion; on the west by the Pacific ocean, and the north by a line running east and west through the centre of Laguna Honda to the Pacific ocean; that said rancho Laguna de la Merced is situated partly in the county of San Mateo, and partly in the city and county of San Francisco; that affiant has been intimately acquainted with the

412 heirs of Francisco de Haro, deceased, ever since his intermarriage with said Rosalia, that is to say, for the past twelve years; that affiant was present when Leandro Ransom surveyed the external boundaries of said rancho, and aided and assisted said Ransom in said survey, but was not present, and had nothing to do with the survey of the half league of land commonly called the Ransom survey; that so far as this affiant has any knowledge or information on the subject, neither the said Rosalia nor any of the heirs of said Francisco de Haro, deceased, ever selected or authorized the selection of the half league of land as surveyed by said Ransom; that the said heirs have always, since affiant knew them, claimed and insisted that they were entitled to all of the land within the external boundaries of said rancho, under the title papers presented in this cause, and never, during that time, claimed anything less than the whole of said land; that affiant never had any authority from any of said heirs to make or assist in any selection of a half league of said land, and never assumed to select, and never did select or aid in select-

413 ing the particular half league of land within said external boundaries as located by said Leander Ransom, but was present at the half league survey made by Matheson. Affiant further says, that it is true that he did take possession of the piece of land known as the Lake House property, believing the same to be outside of the half league, if the land confirmed should finally be limited to that quantity, and without the consent of said heirs, or any of them, knowing that the original occupancy of Galindo and Francisco de Haro was south of said Lake House property, and bounded by the ranchos Buriburi and San Pedro; that affiant was induced to do solely for the reason that, from what affiant learned and believed, at the time, from various persons, that Felix Argenti, Ramon de Zaldo and Leander Ransom were about to swindle said heirs out of the best part of said rancho, and that school warrants were about being located upon said lands for the benefit of the three persons last above named; and affiant being ignorant how to prevent the same, concluded it was better for him personally to take possession of said

414 Lake House property than to allow others to take it, and that the same was done by affiant for his own benefit, and without consulting any of said heirs; that affiant never sold or mortgaged said Lake House property, intending to convey or incumber the interests of the heirs of Francisco de Haro in said rancho, but did mortgage, as he believed, only his personal right of possession; that some time thereafter, to wit, about the month of November, 1853, affiant seeing in the newspapers a publication, of which the annexed is a copy, marked "A.," affiant, at the request of said heirs, caused to be published and circulated over said rancho, and at different places in the then county of San Francisco, and also, at the time and place of said proposed sale, caused to be read publicly the notice of which the annexed is a true copy, marked "B."

CHARLES BROWN.

Subscribed and sworn to before me this 2d day of July, A. D. 1862.

W. W. PARKER,
Notary Public.

[SEAL]

415 *Exhibit "A," referred to in the affidavit of Chas. Brown.*

AUCTION SALES.

Wainwright, Randall & Co.

Also, No. 5, forming the corner of First and Harrison streets, having a front of 25½ feet on Harrison street, and 69 feet on First street.

Also, No. 6, situated on First street, commencing 69 feet from Harrison street; has a front of 22 feet 10 inches, by 137½ feet in depth.

Also, No. 7, next adjoining on the southeast; same dimensions.

Also No. 8, next adjoining No. 7; same dimensions.

These beautiful lots are located in an improving neighborhood, commanding a magnificent view, and offer superior advantages to purchasers.

Surveyed and fenced. Taxes all paid.

TERMS.—One-half cash, and balance in six months at 2½ per cent. a month.

416 Also, one thousand and six hundred (1,600) acres of land within (7) seven miles of the city of San Francisco, and in the neighborhood of the abbey, commencing at the Portezuela and running south, comprising some of the most valuable land in the county of San Francisco for private residences, farming, grazing and dairy purposes.

It has been surveyed and laid off into tracks of from twelve (12) to one hundred and three (103) acres, in order to accommodate the wants of all classes of the community. It is bounded by the "Haro," "Buriburi," Noe and Ridley's ranchos.

There are several arroyos passing through the property, and also two lakes, that are supplied with water during the whole year.

With the exception of those parts bordering upon the Ridley rancho, and part of the Haro rancho, almost the whole of the tract is level.

It is subdivided as follows:

No. 1 contains 12 acres, and corners upon the late Noe's, now Homer's, and Haro ranchos.

No. 2 contains 17 acres.

Nos. 3, 4, 5, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 30, 31, 32, 34, 25, 38, 39, 42, 43, 46, each contains 20 acres.

Nos. 47, 49, 51, each contains 30 acres.

417 No. 11 contains 25 acres, and adjoins Portezuela.

No. 6 contains 37 acres, " "

Nos. 28, 29, 36, 37, 44, 45, 50, 33, 40, 46, and 48, each 40 acres.

No. 21 contains 53 acres.

No. 52 contains 50 acres.

No. 53 contains 103 acres, and forms the southwest corner of the property.

No. 54 contains 59 acres.

No. 55 contains 54 acres.

No. 56 contains 49 acres.
No. 57 contains 44 acres.
No. 58 contains 41 acres.
No. 59 contains 49 acres.

Full particulars can be obtained, and the map, showing the property as subdivided, can be be seen, upon application at our office.

The title to all of the above-mentioned property shall prove satisfactory to the purchasers, or they will not be held to their purchases.

Any information required in relation to any of said property can be had by applying at our office, or, on the day of sale, from the stand.

Acts of sale at expense of purchasers. N. 20.

Also, farm in San Francisco county; a farm, containing 160
418 acres, in the vicinity of San Mateo, near Capt. Macondray's farm.

Plan can be seen, and full particulars obtained, by applying at our office. N. 23.

At private sale.

Farms! Farms!! Farms!!!

Ten farms, in Santa Clara county, each containing 160 acres, being portions of the well known rancho called "Santa Riter."

Possession given immediately.

For particulars apply at our office, 94 Merchant st. N. 8.

At private sale.

A commodious two-story dwelling house, and lot 46¼ by 60 feet, on Jackson street, between Powell and Mason streets.

Also, a desirable private dwelling, and lot 20½ by 75 feet, on Powell street, between Clay and Sacramento street.

Also, improved property on Dupont and Pike streets; lot on west side of Dupont street, near the Adelphi theatre, 61 by 55 feet, improved with fire-proof buildings, and producing a good rental.

Also, lot in the rear of the above, fronting 60 feet on Pike
419 street by 55 feet in depth, improved with brick buildings, and producing a good rental.

Also, desirable lots in the vicinity of North Beach.

Also, two dwelling houses on Sutter street, near Kearny. N. 6.

Exhibit "B," referred to in the affidavit of Charles Brown.

CAUTION.

Whereas Wainwright, Randall and Co. have advertised 1,600 acres of land, near the Abbey Hotel, for sale at auction, on Saturday next, 3d December, this is to warn all persons that said property is on the Haro rancho, and said sale is unauthorized by the heirs to the same.

☞For further particulars inquire of either of the heirs.

Endorsed: Re-hearing granted.

O. H.

Filed July 16, 1862.

420 W. H. CHEVERS, *Clerk.*

Notice that re-hearing has been granted.

U. S. district court.

THE UNITED STATES
v.
JOSEFA DE HARO *et al.* } No. 380.

SAN FRANCISCO, *July* 16, 1862.

To W. H. Sharp, esq., U. S. attorney :

You are hereby notified that a re-hearing has been granted in the above-entitled cause on the petition of the claimants, and that said petition has been filed this day in the clerk's office.

Yours, &c.,

McDOUGAL & SHARP,
Att'ys for Cl'm'ts.

Service of above acknowledged this 16th day of July, A. D. 1861, and further service, provided in rule XI, is waived.

WM. H. SHARP,
U. S. Att'y.
By J. B. CROCKETT,
Att'y in aid U. S.

Endorsed : Filed July 16, 1862.

W. H. CHEVERS, *Clerk.*

421 NOTE.—According to the clerk's register, the affidavit of David Mahoney and the order allowing Leander Ransom and Ramon de Zaldo to be recalled follows here ; but the same are attached to the depositions of Ransom and de Zaldo, as can be seen by reference being made to pages 466 and 468 of this transcript.

COPYIST.

Dep. of Horace Hawes on part of intervenor Mahoney.

422

423 In the district court of the United States for the northern district of California.

THE UNITED STATES
vs.
JOSEFA DE HARO *et al.* } In land cases, dist. court, No. 380.—Land com. No. 102.

Be it remembered, that on this 19th of day August, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the

acts of Congress in that behalf, personally appeared Horace Hawes, a witness produced in behalf of the int. Mahoney, in the above-entitled cause, now pending in said court under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows, his evidence being taken by consent :

Present : S. A. Sharp, for int. Mahoney; and W. H. Sharp, U. S. att'y, for the U. S.

Questions in behalf of the int. Mahoney.

424 Question 1st. What is your name, age, and place of residence ?

Ans. My name is Horace Hawes; my age is forty years and upwards; I reside in San Francisco.

2. Examine the affidavit of Horace Hawes, forming part of the petition for rehearing in this case, filed July 16th, 1862, and state whether you made said affidavit; and if so, whether said affidavit contains all the facts in connection with your relation in this suit ?

(Objected to as incompetent, irregular, and improper as depriving the government of the U. S. of the opportunity to cross-examine and except to the competency of the matters contained in said affidavit.)

Ans. The affidavit contains the facts as far as it goes, but not all the facts in connection with my relation to this suit, and I am not able to say, until more particularly interrogated, whether it contains all the facts material to the parties in the present examination.

425 3. In said affidavit you state that you were specially retained as counsel to advocate before the land commission, and the U. S. dist. court for this district the claim of the heirs of de Haro in this cause. State when you were so retained, and by whom ?

Ans. I was retained as counsel for the claimants about the 10th July, 1854, by John B. Frisbie and Ramon de Zaldo. De Zaldo, I believe, acting as administrator of the de Haro estate; though I am not very distinct in regard to what capacity he was acting in. Subsequently I had an arrangement with some of the claimants directly.

4. Please state whether you were instructed by your clients to prosecute the claim for a confirmation to boundaries, or otherwise ?

(Objected to as irrelevant.)

Ans. I don't recollect of any specific instructions on that subject, but I did advocate their right to all the land embraced within the boundaries described in the original grant and the diseño thereto annexed, without limitation of quantity.

5. State whether a plat of the survey known as the "Ran-
426 som survey," and filed as an exhibit to the deposition of Leander Ransom before the land commissioners in 1854, is the plat of any survey authorized by you as counsel for claimants, showing the election of said claimants of half a league of land, within the exterior limits of the land granted; and if not, state all the circumstances within your knowledge concerning the introduction of said plat into the case, or that plat filed July 12th, 1854.

Ans. The survey and plat referred to in the question were not made or filed with my consent, but I repudiated them on the hearing of the cause as being irregularly on file and inadmissible as evidence. I have no knowledge of any circumstances, so far as I now recollect, concerning the introduction of the said plat and survey. I think they were not only made without my knowledge, but placed on file without my knowledge, though I will not say positively that I may not have known of the fact of their being filed, near the time that it occurred. At the time the survey was made I had no connection with the cause, and from the indorsement on the plat it appears to have been
427 filed about the time I was retained. It might possibly have been before I gained any particular knowledge of the cause.

6. From the time of your retainer about the 10th July, 1854, did you prosecute this claim with or without associate counsel?

Ans. During that time the case was, I believe, under my control as counsel for the claimants, but I believe that I did confer on one or two occasions with Judge Alexander Campbell, who had previously been employed, and he may have been present at the time of the argument before the U. S. land commission. I will not say positively how far I may have been assisted on occasions by one of the counsel who had been previously employed. Under the contract which I had with the parties interested, I believe my connection with the case ceased upon the confirmation of the claim by the U. S. dist. court.

7. State whether, during the time that you prosecuted the claim, the clients you have named, or either of them, accepted the survey of the half league within the exterior boundaries shown by
428 the Ransom survey, as the specific land which they claimed; and whether they, or either of them, desired you to prosecute their claim for that specific tract, and no more.

(Objected to as incompetent and leading.)

Ans. They did not to my knowledge.

8. State any facts or circumstances within your knowledge respecting the Ransom survey, by whom authorized, and for what purpose it was made, and by whom filed.

Ans. I recollect nothing further than I have stated.

Cross-examination.—Questions by counsel for the U. S.

Ques. 9. By what data were you enabled to remember the particular day upon which you were retained in the case?

Ans. The date of the contract in writing between Frisbie and de Zaldo and myself.

429 10. Have you that contract in your possession; if so, will you please produce it, that the original or a copy of it may be annexed to your deposition as an exhibit?

Ans. I have the contract still in my possession, and I now produce it. A copy is to be annexed to this deposition marked Exhibit Hawes, No. 1.

11. Were you employed by any one subsequently to prosecute said claim? If so, state by whom.

Ans. Subsequent to my contract with Frisbie and de Zaldo, it may possibly have been after the confirmation by the board of land commissioners, I had an arrangement directly with several of the claimants, as I have before stated. Chas. Brown, who married one of the daughters of de Haro, James Denniston and wife, Paul Tissot and wife, and I think Candelaria and Carlotta, daughters of de Haro, all signed the contract. The contract is in the form of a deed, and contract is recorded in this county. The one signed by Chas. Brown is a different contract from the one signed by the other parties mentioned.

430 It is agreed that the witness may furnish to the commissioner copies of the documents referred to in his last answer, to be annexed to this deposition as Exhibits Hawes, 2 and 3, to have the same effect as if the originals were produced, subject to all legal exceptions as to relevancy and competency.

12. Do you still retain the same interests in these lands as were conveyed to you by these instruments?

Ans. I agreed to sell that interest for a certain amount of money, payable on a specified day, which amount has not been paid. I have made no conveyance.

13. Are you or not interested in the rancho Laguna de la Merced?

Ans. I consider I have an in it, growing out of the facts which I have stated.

Counsel for the U. S. objects to all the foregoing testimony, on the ground that the witness is interested in the result of the suit, and not competent to testify.

431 *Direct examination resumed.—Questions by counsel for intervenor Mahoney.*

Ques. 14. State the contract by which you agreed to dispose of your interest in the rancho Laguna de la Merced.

Ans. The arrangement was verbal, except that a note was given for the purchase money. I agreed to give a quit-claim deed for my interest, upon the payment of one thousand dollars in one year, as specified in the note. I offer a copy of the note, to be annexed to this deposition, to be marked Exhibit Hawes, No. 4.

Deposition closed.

HORACE HAWES.

Subscribed and sworn to this 19th day of August, A. D. 1862, before me.

W. H. CHEVERS, *U. S. Com'r.*

Exhibit Hawes, No. 1.

In the city of San Francisco, on this tenth day of July, A.
432 D. 1854, in consideration of the professional services to be rendered by Horace Hawes as counsel before the U. S. board of land commissioners for California, in support of the claim of

de Haro's for the place called "Laguna de la Merced," No. 102, we, the undersigned, do agree to pay him, the said Horace Hawes, the sum of one thousand dollars, immediately upon the confirmation of said claim or title, either by the said board or any appellate tribunal, (in case of a rejection by said board,) it being understood, however, that the said Hawes is obligated only to render his services, advice, and advocacy while the said case remains before the said board of land commissioners.

JOHN B. FRISBIE.
RAMON DE ZALDO.

A true copy of the original.

W. H. CHEVERS, *U. S. Com.*

433 *Exhibit Hawes, No. 2.*

This indenture, made this thirtieth day of April, A. D. 1855, by and between Prudencio de Haro, Candelaria de Haro, Carlota de Haro, Josefa de Haro, together with her husband, James G. Denniston, and Maria Natividad de Haro, with her husband, Paul Tissot, parties of the first part, and Horace Hawes, counsellor at law, party of the second part, witnesseth as follows:

Whereas the said Prudencio, Candelaria, Carlota, Josefa and Maria Nativided, as heirs of Francisco de Haro deceased, have, together with the remaining heirs, their claim pending before the U. S. board of land commissioners for California, for the tract of land situated within the county of San Francisco, known and designated by the name of "Laguna de la Merced," and have retained the said Horace Howes as their counsel before said board and the federal courts in case of appeal, who undertakes to advocate their said claim before said commission and courts, and in all things diligently and faithfully to discharge his duties as such their counsel according to the best of his learning and ability.

434 In consideration of which professional services, already rendered in part, and to be continued and rendered by the said Horace Hawes, the said parties of the first part do give and grant unto him, the said Horace Hawes, his heirs and assigns forever, one undivided tenth part of each of their respective shares and interests in the aforesaid tract of land, to hold, however, upon condition that he, the said Horace Hawes, shall render the said services as above expressed, it being understood that in case this agreement should not actually be executed by all the parties of the first part above-named, it shall notwithstanding be binding upon the others who do execute it.

In witness whereof the said parties of the first part, as well as the

said party of the second part, have hereunto set their hands and seals, the day and year first above written.

CANDELARIA DE HARO. [SEAL.]
CANDELARIA DE HARO,
By her Attorney. [SEAL.]
CARLOTA DE HARO.
CARLOTA DE HARO. [SEAL.]
435 JOSEFA DE HARO DENNISTON. [SEAL.]
JAMES G. DENNISTON. [SEAL.]
MARIA NATIVIDAD her + mark. DE HARO. [SEAL.]
PAUL TISSOT. [SEAL.]

Signed, sealed and delivered in presence of—
JAS. W. FINLEY.

STATE OF CALIFORNIA,
County of San Francisco, ss:

On this fourteenth day of May, A. D. one thousand eight hundred and fifty-five, before me, Joseph W. Finley, a notary public in and for said county, personally appeared Candelaria de Haro, by her attorney, Carlota de Haro, *Carlota de Haro*, for herself, James G. Denniston and Josefa, his wife, and Paul Tissot and Maria Natividad, his wife, known to me to be the person described in, and who executed the foregoing instrument, who severally acknowledged to me that they executed the same freely and voluntarily, for the uses and purposes herein mentioned. And the said Carlota de Haro, Josefa Denniston, and Maria Natividad, having been first by me made acquainted with the contents of said instrument, acknowledged to me, on an examination had apart from and without the hearing of her husband, that she executed the same freely and voluntarily,
436 without fear or compulsion, or undue influence of her husband, and that she did not wish to retract the execution of the same.
Witness my hand and official seal.

[SEAL.] JOS. W. FINLEY,
Notary public.

Recorded in county recorder's office, San Francisco, July 24th, 1855, at 3 p. m., in liber 51 of deeds, page 749.

JAMES GRANT,
County Recorder.

STATE OF CALIFORNIA,
County of San Francisco, ss:

On this third day of September, A. D. one thousand eight hundred and fifty-five, before me, Armand Guyol, a notary public in and for said county, personally appeared Miss Candelaria de Haro, to me personally known to be the person described in, and who executed the foregoing instrument, who acknowledged to me that she exe-

cted the same, freely and voluntarily, and for the uses and purposes therein mentioned.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

[SEAL.] ARM. GUYOL,
Notary public.

437 A true copy of the original.
W. H. CHEVERS, *U. S. Com.*

Exhibit Hawes, No. 3.

I, Charles Brown, claiming, in right of my wife, an undivided interest in the tract of land situated in the county of San Francisco, and known by the name of "Laguna de la Merced," the claim for which is now pending before the U. S. board of land commissioners for California, number one hundred and two, (102,) as designated and numbered on the docket and records of said board, have requested Horace Hawes, counseller at law, to give his professional aid and assistance in support of the said claim, and in consideration of such services rendered, and to be rendered, by said Hawes while the case is pending, and till disposed of by said board of commissioners, I, for my part, individually, do hereby bind myself that after the said claim shall have been confirmed by said board of commissioners, or if rejected by them, after it shall have been confirmed on appeal by the district or Supreme Court of the United States, I will give
438 to the said Hawes, and cause to be conveyed to him, by a good and sufficient deed in fee simple, five acres of the said land so confirmed, to be by him selected and located at his option, provided that such location shall not be so made as to include any of the buildings or houses now existing on said tract of land, nor any land within one hundred varas thereof.

SAN FRANCISCO, *July* 19, 1854.

Witness my hand and seal. It is provided further, that the said five acres of land to be given to said Hawes shall not be selected by him out of the land included in the bend of lake at the west of the Lake Honda, which is now enclosed.

CHARLES BROWN. [SEAL.]

Witness:
STEPHEN P. WEBB.

STATE OF CALIFORNIA,
County of San Francisco, ss:

Before me, Armand Guyol, a notary public in and for said county, duly commissioned and sworn, dwelling in the city of San Francisco, personally appeared S. P. Webb, who, being by me duly sworn, declared that he resides in the city of San Francisco; that he
439 knows Charles Brown, the individual described in and who

executed the annexed instrument; that he was present and saw him sign, seal and deliver the same; that he subscribed his name thereto as a witness, and that the said Charles Brown acknowledged to him that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

Witness my hand and official seal, at the city of San Francisco, this third of day of August, A. D. eighteen hundred and fifty.

[SEAL.] ARM. GUYOL,
Notary public.

Recorded in county recorder's office, San Francisco, Cal., in liber No. 3 of covenants, page 222, August 4th, A. D. 1855, at 11¼ o'clock a. m.

JAMES GRANT,
County recorder.

A true copy of the original.

W. H. CHEVERS, *U. S. Com.*

Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

441 *Deposition of E. W. Taylor, on part of claimants and intervenor Mahoney.*

In the northern district court of the United States for the district of California.

THE UNITED STATES *vs.* JOSEFA DE HARO *et al.* } In land cases dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this 22d day of August, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the district of California, to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared E. W. Taylor, a witness produced in behalf of the cl't and int. Mahoney, in the above-entitled cause, now pending in the said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows, his evidence being taken by consent.

Present: S. A. Sharp, esq., for claimant and int. Mahoney, and W. H. Sharp, U. S. att'y, for the U. S.

Questions in behalf of the cl't and int. Mahoney.

442 Question 1st. State your name, age, and place of residence?

Ans. My name is E. W. Taylor, I am 35 years of age, I reside in San Francisco.

2. Examine the affidavit of Jeremiah Clarke and E. W. Taylor, forming part of the petition for rehearing in this case; state whether the said affidavit was made by you.

Ans. It was.

3. By whom were you employed to present the claim of the heirs of Francisco de Haro to the board of U. S. land commissioners?

Ans. By the then administrator of the estate of Francisco de Haro, Ramon de Zaldo. I frequently saw the heirs, but never had a business conference with any one but the administrator, so far as my present recollection extends; I frequently visited the heirs at the mission, and Chas. Brown was frequently in the office; he married one of the heirs; my firm was attorney for Chas. Brown in other matters.

443 4. Was your firm employed by de Zaldo to prosecute the claim of the heirs for quantity only, or for all the lands embraced in the exterior boundaries?

Ans. I am unable to answer; Mr. Clarke had especial charge of the business, the details of it I am not able to remember.

5. Can you state by whose authority the plat of the initiatory survey filed in the case, made by Leander Ransom, and marked "filed July 12th, 1854," was put in the case?

Ans. I cannot.

Cross-examination.—Questions by counsel for the U. S.

Ques. 6. Were the heirs of de Haro aware that your firm were prosecuting their claim before the land commission under the employment of de Zaldo as administrator?

Ans. I think there was no doubt that they were.

7. Did your firm continue to prosecute said claim until it was confirmed by the land commission?

444 Ans. Without reference to books and papers I am unable to state.

8. Was there any other attorney or attorneys besides your firm engaged in the prosecution of said cause before the land commission, at any time when it was pending?

Ans. There may have been, but if so I do not recollect any.

9. Is it or not true, that inasmuch as Mr. Clarke, your partner, had the exclusive management of this case before the land commission on behalf of your firm, you had very little knowledge of the steps you were taking in said cause?

Ans. At the time I had knowledge of the steps taken in the cause, but inasmuch as Mr. Clarke had especial charge of the case, and the long time that has elapsed, my recollection of details is indistinct.

Deposition closed.

E. W. TAYLOR.

Sworn to and subscribed this 22d day of August, 1862, before me,

W. H. CHEVERS,
U. S. Com.

445 Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

Deposition of A. G. Randall, on part of claimants and intervenor Mahoney.

In the district court of the United States for the northern district of California.

THE UNITED STATES *vs.* JOSEFA DE HARO *et al.* } In land cases—dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this 22d day of August, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared A. G. Randall, a witness produced in behalf of the int. Mahoney and cl't in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows,
446 his evidence being taken by consent.

Present: S. A. Sharp, for claimant and int. Mahoney; and W. H. Sharp, U. S. att'y for U. S.

Questions in behalf of the cl't and int. Mahoney.

Question 1st. State your name, age, and place of residence.

Ans. My name is A. G. Randall; I am 37 years of age; I reside in San Francisco.

2. Were you a member of the auction firm of Wainwright, Randall & Co. in 1853?

Ans. I was.

3. Look at the paper marked "A," attached to the affidavit of Chas. Brown, forming part of the petition for rehearing in this case, filed July 16th, 1862, and state whether you recollect by whose orders you advertised the property designated in the paper marked "A," as "1,600 acres of land near the abbey."

Ans. I do recollect it; it was by the orders of Felix Argenti, now deceased.

4. In said paper marked A, reference is made to a map of
447 the property showing subdivisions; state whether such map was prepared by your firm. If so, by whom was it ordered and paid for?

Ans. It was prepared by our firm, and was ordered and paid for by Argenti.

5. State if the property was offered for sale in pursuance of the advertisement. If so, when.

Ans. It was in the early part of December, 1853. On the day of sale there was a protest made, and we did not think it advisable to go on with the sale. It was afterwards withdrawn from sale by Ar-

genti. The protest was to the effect that the purchasers would get no title, as it belonged to the de Haro family.

6. State whether or not the sale of this property had been postponed one or more times before it was withdrawn.

Ans. I don't recollect, but it can be ascertained by referring to the files of the Alta California for that year.

7. Do you recollect whether any other persons besides
448 Argenti were concerned in the sale of the land? If so, state whom.

(Objected to, because the witness is inquired about as to no fact—only as to an inference and matter of opinion.)

Ans. We had our account with Argenti. Ramon de Zaldo made himself very officious, and, I think, made the first arrangement with us. I don't recollect of anybody else.

8. Do you recollect who made the protest at the time the property was offered for sale?

Ans. I do not.

9. Under what title was the property to be sold?

Ans. Under a school land warrant title, Argenti having located a school land warrant there.

10. After the property was withdrawn, did you sell any school land warrants for account of Argenti?

Ans. We did.

Cross-examination waived.

Deposition closed.

A. G. RANDALL.

449 Sworn to and subscribed this 22d day of August, 1862, before me.

W. H. CHEVERS,
U. S. Com.

Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

Deposition of Jeremiah Clarke on part of claimant and intervenor Mahoney.

In the district court of the United States for the northern district of California.

THE UNITED STATES
v.
JOSEFA DE HARO *et al.*

In land cases—dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this 22d day of August, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses civil causes depending in the courts of the United States, pursuin ant to the acts of Congress in that behalf, personally
450 appeared Jeremiah Clark, a witness produced in behalf of

cl't and int. Mahoney in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows, his evidence being taken by consent.

Present: S. A. Sharp, esq., for claimant and int. Mahoney, and W. H. Sharp, U. S. att'y for the U. S.

Questions in behalf of the cl't and int. Mahoney.

Question 1st. What is your name, age, and place of residence?

Ans. My name is Jeremiah Clark; my age is 46 years; I reside in San Francisco.

2. Were you examined in this case on the 16th Jan'y, 1862, shown by the deposition filed herein April 14th, 1862?

Ans. I was.

3. Examine the affidavit attached to the petition for rehearing in this case, filed July 16th, 1862, purporting to be an affidavit
451 made by you, and state if you made such affidavit.

(Objected to as incompetent and irrelevant.)

Ans. I did.

4. Look at the initiatory survey filed in the case made by Leander Ransom, and state if you know who filed it in this case.

Ans. I have no knowledge in regard to it, except what I derive from the endorsement on it. I was in the Atlantic States at the time the map was approved and filed.

5. Have you any recollection of ever seeing the map before it was filed?

Ans. I have not. I think I never saw it until after it was filed.

6. During the years 1853–54, were you a member of the firm of Clark, Taylor & Beckh, who presented this claim before the U. S. land commission? If yea, please state whether you are the Mr. Clarke referred to by Mr. Taylor, as having the exclusive
452 charge of prosecuting the case before the land commissioners.

7. State if you know who had charge of the case during your absence referred to in the Atlantic States.

Ans. My recollection is not very clear; my impression is, that Judge Alexander Campbell represented me in all pending land cases during my absence from California.

8. By whom was your firm of Clarke, Taylor & Beckh employed to prosecute the claim?

Ans. By Mr. de Zaido, acting as administrator of the estate of Francisco de Haro.

9. In your management and conduct of the case, state if you had any business conference with the heirs and children of de Haro in reference to the management of the case.

Ans. I did not.

10. State if you had any conference with the children or heirs of de Haro in reference to applying for, directing or having made by the surveyor general of the United States, or other
453 surveyor, any preliminary or initiatory survey of the land claimed

in this cause, or in reference to the initiatory survey before referred to made by Leander Ransom.

Ans. I did not. According to my recollection, the only agency I had in causing that survey to be made, and the only action I took in regard to it, was the writing of a letter to the surveyor general, referred to in my former deposition.

11. At whose request was that letter written?

Ans. I don't recollect being requested by anybody to write it; but if written by me, it must have been in pursuance of instructions from de Zaldo.

12. In writing the letter in question, if written by you, was your object to obtain a survey of any particular half league of land within the external boundaries, or to have a survey made representing the whole land, together with and within the external boundaries?

Ans. I had no object except to follow my instructions. I
454 have never supposed that a survey could have any legal effect or operation in the cause, and the only motive which I could suppose any one could have in causing it to be made, was to apparently indicate what vacant lands were outside of it.

(All except the first part of the answer is objected to by counsel for the U. S. as incompetent, irrelevant, and not responsive to the question.)

13. State whether, before or since the making of the initiatory survey made by Leander Ransom, hereinbefore referred to in your management of the cause, you prosecuted it for a confirmation of the whole land within the external boundaries, or any particular half league of land within said boundaries.

Ans. The petition will show better than I can remember.

14. Did you at any time after filing the petition in this cause present, or prosecute the claim for a confirmation of any other land than that named in the petition in this cause?

455 Ans. I don't recollect having filed any amended or supplemental petition, nor having the claim varied in any way.

15. Did you ever present or prosecute the claim in this cause for any definite specific half league of land, delineated by metes and bounds, and located within the external boundaries of the lands claimed in this cause?

(Objected to, because the record and papers in the cause are the best evidence of what the witness did in prosecuting the claim.)

Ans. I prosecuted the claim set forth in the petition, and none other.

16. As counsel in the cause, were you instructed to prosecute any other claim than that presented in the petition for confirmation, or for any less quantity?

Ans. I have no recollection of having received any instructions different from those I followed in prosecuting the cause.

17. State whether or not about the time of making the Ransom survey, or within a few months previous thereto, you had any
456 conversation with Felix Argenti, Ramon de Zaldo and Leander Ransom, or either of them, in reference to locating school land warrants by them, or either of them, upon any portion of the lands

within the external boundaries of the lands hereinbefore referred to; if yea, state such conversation as near as you can recollect.

Ans. I have no recollection of any such conversation. I don't remember having taken any steps in the prosecution of the cause after my leaving California for the Atlantic States in March, 1854. I think that other counsel, representing vendees of some of the claimants, took the principal charge of the cause after that time.

Cross-examination.—Questions by counsel for the U. S.

Ques. 18. When you presented the said claim for confirmation, and after examining the title papers, what was your opinion, as a lawyer, as to the amount of land to which the claimants were entitled; was it for all the land within the exterior limits, without respect to quantity, or for one league in length by half a league in breadth, to
457 be taken within the exterior limits; or did you have any opinion on the subject?

(Objected to as incompetent and irrelevant, and as to the matters of opinion and law, and not fact.)

Ans. I think my opinion always was, it was for a grant of half a league in quantity.

19. State whether or not, at or about the time you presented the petition, you informed de Zaldo, the administrator, that such was your opinion.

Ans. I do not recollect having given him any such information. I don't think there was ever any doubt on the subject entertained by de Zaldo at the time I had charge of the cause.

20. Did you, or not, have frequent conferences with him about the said cause, and consult with him frequently about it during its prosecution?

Ans. The claim was frequently mentioned during the time I had charge of it, but I don't recollect any formal or serious consultations or conferences in regard to it. My recollection is, that it was re-
458 garded as a very simple cause; that the genuineness of the grant was undoubted; that its quantity was half a league; that the jurisdiction of the commissioners was limited to the ascertaining the genuineness and validity of the grant; the location of the land devolving upon the surveyor general after its confirmation by the board, and that my duty was simply making the formal proof the genuineness of the title papers before the board.

21. Do you not remember that under the early decisions of the land commissioners, grave doubts were entertained by the profession whether the said commission would confirm claims where the grant was for a smaller quantity within larger limits, if there had been no segregation of the quantity granted so as to enable a surveyor to fix and locate them as surveyed?

Ans. Such doubts were certainly entertained. In speaking of the simple character of this claim, I meant after the leading general principles involved in California land cases had been settled by the board, for after that time our practice proceeded generally upon

459 the hypothesis that their decisions would be sustained by the supreme court.

22. Do you not know that in the Frémont and other cases, preliminary surveys were made for defining the particular land claimed, similar to the survey in this case, with a view to obviate the difficulty about segregation?

Ans. My recollection is that in the Frémont case an order of the board was obtained for a preliminary survey at the instance of the claimant, and the survey was made in pursuance of that order; that applications for similar orders were made in other causes; that after maturely considering the question the board decided not to make any more orders of that kind; and it was for this reason, I suppose, that the application in this case was made directly to the surveyor general, instead of an order of the board.

Adjourned until 2 o'clock p. m. to-morrow.

460 SAN FRANCISCO, *August 23d*, 1862.

Examination of Jeremiah Clarke resumed from yesterday.

Present, all the parties.

Examination adjourned until Monday next, 25th inst., at 10 o'clock a. m.

SAN FRANCISCO, *August 25th*, 1862.

Examination of Jeremiah Clark resumed from Saturday last.

Present, all the parties.

Examination adjourned until to-morrow, at 2 o'clock p. m.

SAN FRANCISCO, *August 26th*, 1862.

Examination of J. Clark resumed from yesterday.

Present, all the parties.

Ques. 23. What were the names of the clerks in your office
461 who assisted at the Ransom survey?

Ans. There was a Spaniard by the name of Camara, who assisted us in translating Spanish, and a Dane by the name of Bing, who was a clerk in our office for a considerable time. I think I recollect having seen the report of their names in the survey, as having assisted to make it. I have not seen either of them for a good many years.

24. Did you not apply to the board of land commissioners for an order for the preliminary survey of said ranch; and did not the board refuse to make such order, and was it not after such refusal that you requested the surveyor general to cause said survey to be made?

Ans. I have no recollection of having made such application. I suppose the record would show the fact if it existed. From the copy of a letter purporting to have been addressed by Clarke, Taylor & Beckh to the surveyor general, I infer that the claimants of La Merced must have applied to the board of commissioners for an order for an initiatory survey prior to the date of that letter.

462 25. Examine the paper now shown to you, marked Exhibit Clarke No. 1, to be annexed to your deposition, and state whether it is a copy of a letter addressed by you or your firm to the surveyor general.

Ans. I have no doubt that the original of which this purports to be a copy was written by myself; but this is mere inference; I have no recollection of the fact.

26. Have you any recollection of having applied to the surveyor general, either verbally or in writing, for said survey?

Ans. I have not.

27. Have you any recollection in connection with the said survey at all, or the circumstances under which it was made or ordered?

Ans. I have no recollection of the circumstances under which it was made or ordered. I recollect to have had an impression (but whether before I left for the States, or after my return, I don't remember) in regard to the object of making the survey. That is all I recollect about it.

463 28. Was your firm during the year 1853 engaged as general counsel for the de Haro estate?

Ans. It was.

29. Did you ever have any consultations or conversations with Chas. Brown or James G. Denniston with respect to the business of said estate?

Ans. I don't think I knew Denniston as early as that time. I don't recollect any conversations with Brown in regard to the estate. I am confident that I never received any directions from him, or suggestions, as from a client.

30. Do you recollect whether you suggested to de Zaldo, or he to you, the propriety of causing the said initiatory survey to be made?

Ans. The question seems to assume that I recollect a suggestion being made, in or direction or the other, between de Zaldo and myself. As I have already stated, I have no recollection of any fact touching the survey, prior to its being made.

464 *Direct examination resumed.—Questions by counsel for int. Mahoney and claimant.*

Ques. 28. Do you know where G. W. Beckh, late a member of the firm of Clarke, Taylor & Beckh, now is?

Ans. He left California for Europe something like two years ago, and has not yet returned.

Deposition closed.

J. CLARKE.

Subscribed and sworn to this 26th day of August, A. D. 1862, before me.

W. H. CHEVERS,
U. S. Com.

Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

Exhibit Clarke No. 1, *annexed to depo. of J. Clarke.*

"Rancho Laguna de la Merced."—Francisco de Haro.

SAN FRANCISCO, *June* 10, 1853.

To U. S. sur. gen'l of the State of California:

465 SIR: The heirs of Francisco de Haro, claimants of the rancho de la Merced, whose petition, muniment of title, and proofs are now on file in the office of the board of U. S. commissioners for the ascertainment and settlement of land titles, having applied to said board for an order for an initiatory survey of said rancho, and the same having been refused by said board, respectfully request that such survey may be made under your official authority and direction. Said rancho is the same originally granted to José Anto. Galindo, and by him conveyed to the said Francisco de Haro. It is situated in San Francisco county, and bounded on the south by the rancho of Buriburi, as originally granted to the late José Sanchez.

Very respectfully,

CLARK, TAYLOR & BECKH,
Attorneys for Claimants.

OFFICE OF THE SURVEYOR GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, E. F. Beale, surveyor general of the United States for the State of California, by virtue of the power vested in me by law, do
466 hereby certify that the two preceding and hereunto annexed pages, numbered from one to two inclusive, exhibit a true, full, and correct copy of an application for a preliminary survey, as the same appears on page 134 of record book entitled "Instructions for Preliminary Surveys of Ranchos," the said book being a record of this office, and in my charge and custody.

In testimony whereof I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San [SEAL.] Francisco, this 23d day of Aug., 1862.

E. F. BEALE,
U. S. Surveyor General for California.

Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

Affidavit of David Mahoney, referred to in page 421.

U. S. district court, northern district of Cala.

THE UNITED STATES
v.
JOSEFA DE HARO *et al.* } No. 380.

467 D. Mahoney, being duly sworn, on oath says that he is an intervenor in the above-entitled cause, now pending under

the act of June 14, 1860; that Ramon de Zaldo and Leander Ransom have heretofore been examined herein as witnesses in behalf of the United States; that circumstances have lately come to the knowledge of affiant which make it material and necessary, as he is informed by his counsel, to recall the said witnesses for further cross-examination; that the matters to be examined about are such as do not admit of the calling of said Ransom and de Zaldo as the witnesses of affiant; that affiant is informed and believes that said de Zaldo and Ransom, together with one Felix Argenti, now deceased, conspired to defraud the claimants herein in the matter of a certain survey made by said Ransom in 1853, a plat of which was filed in the case in 1854; and further deponent saith not.

DAVID MAHONEY.

Sworn to before me this 27th day of Aug., 1862.

W. H. CHEVERS, *U. S. Com.*

Endorsed: Filed Aug. 27, 1862.

W. H. CHEVERS, *Clerk.*

468 *Order allowing Ransom and de Zaldo to be recalled, &c.*

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco on Wednesday, the twenty-seventh day of August, in the year of our Lord one thousand eight hundred and sixty-two.

Present: The honorable Ogden Hoffman, district judge.

THE UNITED STATES
v.
JOSEFA DE HARO *et al.* } No. 380.

On reading and filing affidavit and notice of motion, counsel having been heard for the United States and for intervenor D. Mahoney, it is ordered that the witnesses Leander Ransom and Ramon de Zaldo be recalled by the court for further examination, and that either party be at liberty to cross-examine said witnesses, and that such examination be conducted before the commissioner.

Endorsed: Filed August 27, 1862.

W. H. CHEVERS, *Clerk.*

469 *Dep. of Leander Ransom.*

U. S. district court, nor. dist. of California.

SAN FRANCISCO, *Sept. 4th*, 1862.

Examination of witnesses in pursuance of the order hereunto attached, taken before me.

W. H. CHEVERS,
U. S. Commission.

Leander Ransom called and sworn.

Present: S. A. Sharp, esq., for claimant, and Wm. H. Sharp, U. S. att'y for the U. S.

Questions by counsel for claimant, and int. Mahoney.

Ques. 1. In answer to the 2d question of your examination as a witness for the U. S. before the land commission, taken August 1st, 1854, you said, "I made the survey of the rancho Laguna de la Merced some time in the month of July, at the request of those purporting to be the agents for the claimants." State who those agents were, for whom they acted, and by what authority.

Ans. The agents, as I understood, were, in the first place, Clarke, Taylor & Beckh, as they signed themselves, either as attor-
470 ney for de Zaldo, administrator, or for the heirs, I don't remember which. I understood them to be attorneys for the heirs, and de Zaldo to act as administrator.

Q. Did you make the survey at the request of Clarke, Taylor & Beckh alone, or did de Zaldo join in the request, or any of the claimants in the suit?

Ans. I made the survey under instructions from the U. S. surveyor general. Those instructions stated that the survey was made at the request of the heirs. I saw a letter at the time signed by Clarke, Taylor & Beckh, requesting the surveyor general to make the survey, and that is the reason of my stating before that the survey was made at the request of the agents.

3. Did you make that survey solely under the instructions issued by the surveyor general?

Ans. I did.

4. In the instructions on file in the U. S. surveyor general's office, dated June 10th, 1853, it is "expressly understood
471 that by authorizing this survey it is only intended to comply with the wishes of the parties, or intended to exhibit a survey of the land claimed." State how you understood, at that time, that the parties wished the tract of land shown on your plat of survey as the "de Haro ranch," to be segregated from the whole tract shown by the exterior lines of your survey, and how you understood, at that time, that that segregated portion was the tract claimed before the board of land commissioners.

Ans. In the first place I run what I ascertained from documents given me by the surveyor general, and the claimants of adjoining ranchos, what were the exterior boundaries out of which a half a league was to be selected. I made a plat of the survey, which included over a league of land; I then handed the map or plat to Ramon de Zaldo, who represented himself to me as the administrator of the estate of the heirs of de Haro. After keeping it some two weeks, he returned it to me with the tract marked out in pencil, which he informed me was the portion or half league selected by the
472 heirs. After receiving the plat from de Zaldo, in company with a Mr. James Denniston, who I understood to be married

to one of the heirs, I went on to the ground and measured off the necessary lines, and set posts to correspond with the position of the tract which was represented to me as selected by the heirs.

5. State what was contained in the letter of Clarke, Taylor & Beckh, or in the instructions from the U. S. surveyor general, which directed or authorized you, after having surveyed the exterior boundaries of the land claimed, to call upon de Zaldo to make a selection of any particular half league of land?

Ans. There is nothing in the letter of Clarke, Taylor & Beckh requiring me to hand the map to de Zaldo. In the instructions it states that the tract is a league in length by half a league in width. Having ascertained by my survey that there was more than a league out of which the half league could be selected, I considered it my duty to give the heirs the privilege of selection, provided they did it in accordance with what I considered the proper boundaries of the ranch. I therefore handed the map to de Zaldo, who I sup-
473 posed to be the administrator, and acting for the heirs.

6. Would you not have satisfied the instructions had you returned your survey to the office after ascertaining and running the exterior boundaries, as shown by your field-notes, together with a statement of the number of acres contained within those exterior boundaries, particularly as at that time the claimants had no land confirmed to them, either to boundaries or quantity?

Ans. I think not; for the reason that the instructions particularly specified the extent to be a tract a league in length by half a league in width. My impression is that at that time they did not pretend to claim more than half a league.

7. While you were chief clerk in the surveyor general's office did you ever issue instructions for a preliminary or initiatory survey, which directed the deputy surveyor, after ascertaining that the exterior boundaries claimed exceeded the quantity granted, to call upon the claimants to make their election of the quantity granted; or did you ever, while acting as deputy surveyor, make any preliminary survey in the manner that you made this; or do
474 you know of any instructions, by any surveyor general of California, for the making of a preliminary survey where plats have been returned, by any deputy surveyor, showing the election of claimants within larger exterior boundaries?

Ans. I can recollect of one—I think there have been several instances of similar proceedings—the rancho of José de Jesus Noe, across the bay.

8. In answer to ques. 5, of this deposition you say you considered it your duty to give the heirs the privilege of selection, and therefore handed the map to de Zaldo, who you supposed to be the administrator, and acting for the heirs. Did you take any steps to ascertain that de Zaldo was properly representing the heirs?

Ans. I understood him to be the administrator from general report, and for the reason that previous to that time I loaned him some money which he said he wanted for the heirs, to secure the payment of which he gave me a mortgage on a tract of land claimed by the

heirs, near the mission, which was called, I think, Potrero
475 Nuevo. This mortgage he signed as administrator of the estate.

9. Assuming it to have been necessary that an election had to be made at that time, was it not your duty, as deputy surveyor, to ascertain, beyond doubt, the wishes of the claimants and minor heirs, in order that their interest might not be compromised through any action of yours?

Ans. I supposed that in doing what I did I had done all that would be necessary. In the first place, I gave the map to he whom I supposed to be the administrator; in the second place, I supposed that Chas. Brown and James Denniston, who, I understood, had each married one of the heirs, that if the selection had not been satisfactory to the heirs that they would have made some objection.

10. Did it not occur to you that Clarke, Taylor & Beckh, the attorneys of the claimants, and by whose request the survey was made, should have been consulted, in order that you might have been sure, on your part, that you were acting under proper authority in making the selection of a half league.

476 Ans. They were not directly consulted, but their connection with de Zaldo was such that I supposed it was all right. They were cognizant of it. They were all here at the time, I think. I don't know that I was under special obligations to consult them as to the selection under the instructions. I could have made the selection myself, if I had felt so disposed, without consulting anybody. I would further remark that I felt less solicitude about the interests of the heirs for the reason that I considered the selection made as a very judicious one as far as their interests were concerned.

11. Under what authority could you have made the selection yourself, had you been so disposed?

Ans. Under the authority of the instructions of the surveyor general.

12. At the time this selection was made, as you have stated, which was in July, 1853, had you any reason to suppose that de Zaldo was not acting in good faith in the matter of the selection?

Ans. None whatever.

477 13. Examine the document marked "C," annexed to the affidavit of Edw'd Conway, and forming part of the petition for re-hearing in this case, filed July 16th, 1862, and state, if you know, in whose handwriting it is.

Ans. I presume it is in mine; it looks very much like it.

14. This document states that yourself and Ramon de Zaldo had furnished a third party, whose name is not mentioned, with certain information; state who that third party was.

Ans. That document was written, according to my recollection at this time, several years after the location of the ranch; it was intended as a memorandum for Argenti to sign. Something like a week or ten days after the survey and selection were returned to the surveyor general's office, Argenti came to the office of the surveyor general, De Zaldo being at that time the archive clerk, and after making some

inquiry about vacant lands adjoining the de Haro ranch, made a proposition to de Zaldo and myself to furnish him with the necessary information, plats, etc., and make out the papers in the case; that
478 he would furnish school warrants and make a location of a portion of the vacant lands about the ranch, and give each of us a third interest by our paying our proportion of the cost of the warrants whenever a title from the State should be obtained for the land. I furnished him with plats, and made out the necessary location papers, with which he made, in connection with the warrants, a proper location. I took at that time no memorandum or contract to correspond with the understanding, not considering the location of much importance, as land of that character at that time in that locality was not considered very valuable, as the best of that vacant land had been already taken up; this was quite an afterthought so far as I had anything to do with it, and have no reason to believe it was otherwise with de Zaldo. Several years after this transaction I made this memorandum of what my recollections were at the time, intending to have Argenti sign it, which he never did.

15. I understand, then, that no agreement, of which this is a memorandum, was ever actually signed by the parties, or either of them?

479 Ans. I have no recollection of any being signed by me on my part, and I know of none on the other.

16. How soon after the return of the survey made by you was the land outside of the half league and within the exterior lines sectionized as public land; by whom, and by whose authority?

Ans. The survey of the ranch was returned, I think, on the 30th July, 1853. By an examination of the records of thesurveyor general, I find that on the 10th of June, 1854, instructions were issued by John C. Hays, then surveyor general, to Robert B. Hays, a deputy surveyor, to sectionize the land in question; the survey was made a short time after.

17. Do you know whether Robert B. Hays personally sectionized that land, or did he do it from the field-notes of your preliminary survey?

Ans. I don't know whether he did it personally or not. I supposed that it had been done in the field; I know nothing to the contrary.

18. Was it the usual course of business in the surveyor general's office at that time to sectionize within the exterior lines of
480 land claimed under a Spanish grant while the claim was pending, and before even the preliminary survey had been returned to the land commissioners for their action?

Ans. I don't know of any instance where it was done; it was not in this case.

19. In answer to the 16th ques. you say that instructions were issued to Rob't B. Hays on the 10th June, 1854; the plat filed before the board of land commissioners was certified by John C. Hays to be a true copy on the 10th July, 1854, and is marked filed July 12th, 1854; please explain your last answer.

Ans. The instructions were issued, as I stated, on the 10th June, 1854. A copy of the survey, I think, was presented to the land com-

mission in the fall of 1853; that was my impression when I made my last answer. Instructions were issued to Robert B. Hays about that time for sectionizing three fractional townships adjoining the ranch of Maximo Martinez, the Cañada de Raimundo, and the San Gregorio ranchos, a portion of which were within the exterior boundaries of the land claimed by the owners of the San Gregorio ranch.

481 20. If the survey made by Robert B. Hays was not in the regular course of business, why was the exception made in this case, and at whose suggestion?

Ans. The survey was, I believe, in the regular course of business. There are instructions in the surveyor general's office, or there were there when I left the office in 1858, which would cover cases of this kind, as we then understood them.

21. Was not the agreement between yourself, de Zaldo, and Argenti, of which the said Exhibit C is a memorandum, entered into before the 10th of June, 1854, when instructions were issued to Robert B. Hays, and consequently before the filing of the plat before the land commission, July 12th, 1854, and before you gave your deposition before the land commissioners, to which was annexed another plat of your preliminary survey on the 1st of August, 1854?

Ans. If those dates are correctly stated, it would be so; but it is my impression that the survey was returned to the land commission in the fall of 1853.

22. State when you were appointed chief clerk in the surveyor

482 general's office, and whether you filled the office from that time until 1858.

Ans. My appointment was dated about the 1st of July, 1851, and I held the appointment until the fall of 1858.

23. Was it your duty to prepare instructions for the deputy surveyors when either public land or land claimed under Spanish grants was to be surveyed?

Ans. It was a portion of my duty, although I did not always attend to it, as more important duties prevented. In the case of the survey of Laguna de la Merced rancho, the instructions were made out by Sam'l D. King, at that time the surveyor general. Whether I made out the instructions for Rob't B. Hays I don't now recollect.

24. Do you recollect whether any application was made by any person which led to the issuance of the instructions to Robert B. Hays?

Ans. I have no distinct recollection of any particular application having been made. I presume, however, that it was made at the application of several persons.

25. Can you recollect whether Felix Argenti or Ramon de

483 Zaldo ever made such an application?

Ans. I don't recollect that Felix Argenti had anything to say about it, although I presume he was one; I am sure that de Zaldo had nothing to say about it. Argenti's interest was small as compared with the whole of that surplus land, there being twenty or more of such locators on what was considered the public land about the ranch that were sectionized by Robert B. Hays.

26. In answer to your 14th ques. you state that Exhibit C was written, according to your recollection, several years after the location of the ranch, and was intended for Argenti to sign; and subsequently you state that the agreement, of which Exhibit C is a memorandum, was made a week or ten days after the return of the survey and selection to the surveyor general's office. Did you carry out the terms of that agreement?

Ans. I think I have stated previously, so that it should be understood; but if not, I will now state that a proposition was made by Argenti for me to perform certain things to enable him to locate school land warrants, the substance of which is contained in the me-
484 morandum Exhibit C. This proposition was made about ten days after the return of the survey and location of the ranch. I furnished him with maps and the necessary papers to enable him to locate the school warrants as he requested. There the matter ended, as I have never paid my proportion towards the school warrants, and, as I understood, they have been long since floated and sold to pay, Argenti debts. I have never received any remuneration in any form for the assistance I rendered him in making the location. I will further state that some fifteen hundred acres of this vacant land was located by other parties before Argenti made his location, and with which I had nothing to do.

27. Do you recollect when the lands covered with warrants, as located by Argenti, were offered at public auction by Wainwright, Randall & Co., and did you not consider at that time that you had an interest in that sale?

Ans. I recollect some effort being made by Argenti to sell, and presume that, if he did what he agreed to do and I did the same, I should have an interest in the sale.

485 28. State what you know with reference to the location of the school warrants; whether you had any interview with Argenti in reference to their location, and when; and whether the county surveyor made an actual survey of the lands covered by those warrants, or did he locate them from the field-notes of your survey?

Ans. I don't know whether the county surveyor made the location from the field-notes or not, but I presume that he did, as it was a very common practice. I had interviews with Argenti, as I have before stated, about the locations.

29. Are you certain that *that* your first conversation with Argenti in reference to the location of these warrants was after the return of your survey to the office, and had you any conversations with de Zaldo respecting the location of school warrants after the exterior lines were run, and before the segregation of the half league?

Ans. I am very certain that I had no conversation with Argenti before the return of the survey, or de Zaldo either, and I will give you the reasons: Immediately after the proposition made to me by Argenti; and before we had time to make out the necessary
486 papers for locating warrants, several persons had made locations on the tract thrown out by the selection of the ranch, and among them Tracy, and Brown, and James Denniston, and several

others I don't recollect; whereas, if this understanding had taken place previously, the papers would have been ready, and the locations made earlier, so as to include a larger quantity of the land and a better portion.

Questions by counsel for United States.

Ques. 30. At the time your survey was made and returned, had you any understanding or agreement, express or implied, with either de Zaldo or Argenti, in respect to locating land warrants upon, or in any other manner appropriating any part of the land outside of the half league?

Ans. None whatever.

31. Had you, before that time, any conversation on the subject with either Argenti or de Zaldo, or had you formed any plan of your own in respect to the appropriating of said lands?

Ans. I had no conversations with Argenti or de Zaldo on
487 the subject, and I had no thought of location of warrants on the land for the reason that I had not a favorable opinion of the land.

32. In answer to a former question you state that you considered the location of the half league as a judicious one, and favorable to the interests of the heirs; state why you considered it judicious, and what was the relative value of the half league embraced in your survey, compared with a similar quantity of land at any other place within the exterior limits, at the date of the survey.

Ans. The appearances at that time were very much in favor of that location, for the reason that one-third or more of it was under cultivation; and had I been making the location for myself in the form that I believe it was the intended by the Mexican government to have it located, to wit, a league north and south, and half a league east and west, I would consider the location at that time worth twice as much as any other location of the same form in the tract

33. Was not the lake house at that time a well-known place of resort, which was visited by large numbers of people, and
488 did not this fact add very much to the value of the contiguous lands in public estimation?

Ans. It did.

34. Is not the land embraced within your survey of the half league chiefly level, arable land, and is not the land south of the lake partly a sandy plain, and partly precipitous hills, extending to the shore of the ocean?

Ans. The land embraced within the location that I made is nearly level and productive. The portion that was left out is in part small valleys, rolling and precipitous hills, and sandy descending plains. The rolling hills at that time were not considered of much value, but now their value is increased. That was my opinion.

35. At the time that you made the survey of the half league was Denniston present, also Chas. Brown, during a portion of the survey, and did they, or either of them, at that time intimate to you any ob-

jection to the location of the half league, or did they, or either of them, claim or pretend that the heirs of de Haro were entitled to more than a half league?

489 Ans. Chas. Brown was with me a portion of the time while I was running the exterior boundaries of the tract, and pointed out the western boundary of the Noé ranch, which formed the eastern boundary of the tract selected by them. James Denniston was on the ground when I made the necessary measurements, and set the posts to make the half-league selection. He took me in his buggy to the ground, and I returned with him after making the selection of the half league. I heard no objection made either by Denniston or Brown at that time, or subsequently, until they commenced claiming the whole tract, which was several months after.

36. Were there any instructions from the land department to the surveyor general in 1853, or 1854, which prohibited him from sectionizing, as public land, any lands within the exterior boundaries of a Spanish grant, while the grant was for a smaller quantity within larger limits?

Ans. I don't recollect of any; but, on the contrary, there were instructions, if I recollect right, that authorized the sectionizing of lands adjoining ranch lines before the final confirmation.

490 They were written instructions.

(Counsel for claimant objects to the answer on the ground that the instructions themselves are the best evidence of their contents.)

37. Do you, or not, know that before instructions were issued to sectionize the said lands in June, 1854, that a large portion of the lands outside of the said half league had been settled upon by sundry persons, who claimed them under the pre-emption laws?

Ans. There were several houses and improvements; the number I don't recollect. Pretty much all the land was taken up under pre-emption land warrants and other modes; some of it was improved and some not. I think it was all taken up at that time—I mean all outside of the half league.

38. Did Brown or Denniston then, or at any subsequent time, complain to you, or in your hearing, with respect to the location of school land warrants or pre-emption claims on said land? If so, when, for the first time?

491 Ans. They never made any complaint to me about it. The first objection I ever heard against it was about the time of the proposed sale by Argenti; whether by them or the heirs, or other persons, I know not. I saw some notices or publications against it, signed by several persons; who they were I don't recollect.

39. At the time your survey was made, and returned to the surveyor general's office, had you any interest, direct or indirect, contingent or otherwise; or did you then have in contemplation the acquiring of an interest in any part of said lands?

Ans. I had not.

40. Can you remember the name of any person or persons at whose instance the surveyor general directed the said lands to be sectionized?

Ans. I cannot recollect any particular names. I presume that Argenti was anxious about it. My impression is, that it was the general desire of those interested to have it sectionized; I mean by those interested, those who claimed under pre-emptions and school warrants, outside of the half league.

492 41. Did you not, at or about the time you made the survey of the half league, survey for Chas. Brown the tract indicated on "Exhibit Ransom A, No. 1," annexed to your former deposition, by the small green lines?

Ans. I did so at his request; it was a private survey for him.

Questions by counsel for claimants.

Ques. 42. In the instructions of June 10th, 1853, it is stated that it was understood that the claimants would pay for the survey. State whether you received pay for making the survey; if so, from whom?

Ans. Several years after I made the survey, de Zaldo came to me and told me that he wanted to settle with the heirs. He asked me to make out my account and receipt it, which I did do, with a promise that as soon as he had a settlement, he would pay me; this he never has done. Previous to that he has promised to pay me, but he never fulfilled it. I never demanded payment from any of the heirs. I had a book account with de Zaldo, and expecting him to pay me, I had never asked anybody else for it.

493 *Questions by counsel for the U. S.*

Ques. 43. Did not de Zaldo, when you first agreed to make the survey, promise to pay you for making it?

Ans. He did, and I expected to receive pay from him for it. He became soon afterwards in straightened circumstances, and I therefore would not urge the payment.

Deposition closed.

LEANDER RANSOM.

Sworn to and subscribed this 4th of September, 1862, before me.
W. H. CHEVERS, *Com.*

Dep. of Ramon de Zaldo.

SAN FRANCISCO, *Sept. 6th*, 1862.

Examination of Ramon de Zaldo on the order hereunder attached.

Questions by counsel for intervenor Mahoney and claimant.

Ques. 1. In your deposition filed in this case on behalf of the U. S., Feb'y 25th, 1861, you state that you were administrator of the heirs of de Haro, and that, as such administrator, you employed

494 Messrs. Clarke, Taylor & Beckh to prosecute their claim before the land commission for a confirmation of the lands claimed in this case. State at whose suggestion they applied for a preliminary survey.

Ans. At their own suggestion, they, the said counsel, stating to me at the time that it would facilitate the decision of the board, as it had been shown in many other cases.

2. Did you consult with any of the heirs before giving your assent to their suggestion?

Ans. I may have had some conversation with some of them, from the fact that we lived at the mission; that we lived close by—saw each other often; and am inclined to believe that I so stated prior to the survey, although neither then nor now did I think that being their attorney in fact, administrator of the property of their deceased father, and guardian of some of the minor heirs, that it was necessary to consult with them, especially in matters of law committed already to able counsel.

3. When you employed Clarke, Taylor & Beckh as counsel,
495 did you give them any special instructions of the claim with respect to any specific quantity for which a confirmation was to be asked, or did you leave that to their management?

Ans. I merely handed them the tile papers in the case that had been transferred to me by the former administrator, Julius K. Rose.

4. Did Leander Ransom, the deputy surveyor, after ascertaining the exterior boundaries of the land claimed, hand you a plat showing those boundaries, with a request that you should locate within them a tract of a league by half a league, showing the selection of the claimants?

Ans. In my estimation that would have been to put the cart before the horse. If I had the power to do a thing, I would not apply to another to do it. I have stated in this case several months ago, that after obtaining the order for the survey from the surveyor general, who must have chosen to deputise Mr. Ransom, for I did not, once appointed, I told him, "Colonel, luckily it is not like in our trips to Orestimba. It is, you perceive, in the vicinity of the city; and as you have to do with men who speak English as well if not
496 better than you do, you don't need me nor an interpreter. Besides, I don't know the boundaries of that rancho; you have the papers and instructions, and for explanation go to them." And so he did. I am under the impression that, seeing the Colonel Ransom at his office, he did mention that all those little maps or diseños were so imperfect that it was not such a small job, for he would have to run some lines defining the boundaries of the tract called Laguna de la Merced, which, no doubt, prompted my referring him to the heirs to accompany him on the spot, and to point out to him their land.

5. Did Colonel Ransom, after making the survey of the exterior boundaries, hand you a plat showing those exterior boundaries, with a request that you should locate within those boundaries the half league?

Ans. I have stated before that I had no location to make. I did not understand the extent or area of that preliminary survey, or of those preliminary lines; and on inquiry about the progress of the survey, when informed by him that it requires some one well acquainted with its boundaries, in order to designate the land

497 described in the petition of half a league, so expressed in the title papers, and difficult to find out from imperfect diseños or plats under the Mexican *regime*, and since it was for a preliminary survey, I referred him to the parties in interest, as I have stated before, aware as I was of the orders of the department at Washington to the surveyor general of California, that even in larger tracts they had a right to locate or select, and in behalf of those I represented, I thought then, and still think, that they could do them no greater justice than to go on the spot and point out what they wanted.

6. Did you have the plat of that survey in your possession at any time before it was returned to the surveyor general?

Ans. I am not aware that it has been handed to me before it has been returned to the proper quarters. I know that after its completion it came to my possession one day or so, and I hastened to hand it to the lawyers.

7. Do you know whether they filed the plat with the clerk of the land commission, or whether the surveyor general did so?

Ans. I have no recollection whatever of the course pursued afterwards.

498 8. Do you mean to be understood that the selection of the half league shown on the plat of the preliminary survey was made without your personal interference or assistance?

Ans. Most unquestionally. I had no knowledge of its boundaries. It was not occupied by the family, but with few cattle and horses, that neither my predecessor Julius K. Rose nor I ever called to our possession. I knew by hearsay that it was: djoining the lake house, that I only once have visited with Chas. Brown, one of the heirs, who at the time told me that that was his own, and not belonging to the family; therefore I had no knowledge whatever of the locality of the claim, nor do I have it to this day.

9. Examine the document marked C, annexed to the affidavit of Edward Conway, forming part of the petition for rehearing in this case, filed July 16th, 1862, and state whether you ever signed any document, of which Exhibit C appears to be a memorandum; if so, when?

Ans. I have no knowledge of having ever signed such a paper. I have never read this paper before, nor any other of the same purport. I never did furnish any one with maps or plats of any

499 description for that purpose, and like many things that are intended to make it appear, must have its origin in the following: After the survey was made, and simultaneously with the advancement of the value of land in the vicinity of the city of San Francisco, as proved by the sale of one league of Noe's ranch for one hundred thousand dollars, the fact that after the selection of the land by the heirs of de Haro, some of the heirs finding that there was a large tract outside of their lines, and therefore reputed vacant land, had located themselves—some either sections, halves or quarters. I don't know which—with intent of covering it with school warrants; said fact gave the wing to a certain banker, who in his days of affluence was ready to invest in any and everything surrounding this

promising city. Felix Argenti, deceased, who being my own banker at the time, and having in his possession some eight or ten thousand dollars idle, belonging to me, among other schemes was proposing something of that nature; but which, reminding myself that I am under oath, I emphatically deny to have had any knowledge of the acting, or to have received any benefit whatever to the extent of one cent. If they did locate, I don't know where it is. I never was present at any transaction connected with it; and to last day
500 of his life, Argenti never told me I have done so. True, that the proposition was made and tacitly agreed, but I well remember that I said to him for that much. I am an American with a dozen children, and I might as well pre-empt, but whether it was better luck than good management, or that I did smell a mice, I am one of the few, and it remains to be seen if I was wise, that never did want having had ample means and opportunities to invest a dollar in the so-called pueblo of San Francisco. On looking at the said Exhibit C, it seems to me to be in the handwriting of Col. Ransom, who may know something more than I do, and although once we were great friends, which friendship was cooled, owing to pecuniary difficulties and differences since Argenti is no more, will no doubt be able to clear that matter. I also remember, in connection with that scheme, that James Denniston, one of the heirs who married Josefa de Haro, the widow of Guerrero, came to me excited, about learning that they were locating school warrants, and that I told him to keep cool. Haven't you done the same, or are you going to play the dog in the manger, under any circumstances? If the lands are not
501 yours, what the d——l do you care about it; and if they were, how can it harm you? To a Californian, it might appear a usurpation of his land; but look at this law, and see that all the warrants and pre-emptions are null and void in Mexican grants confirmed.

10. Do you know whether the preliminary survey was paid for? If so, by whom?

Ans. There has been a receipt handed, of $400 I believe, to me as administrator, by Col. Ransom, which is on file in the probate court among the vouchers, and that is precisely one of the little differences with Col. Ransom.

Questions by counsel for the U. S.

State whether or not, after the said survey was made, Brown and Denniston took up pre-emption claims outside of the half league located by Ransom?

Ans. I had it from their own mouth besides others; but I have never gone to satisfy myself by the record.

12. Did they state to you why they had taken up such claims?

Ans. Because the tract was much larger than their grant.
502 At that time, which implies twelve or eighteen months after the installation of the land commission, the land owners, always growing impatient about the decision, were beginning to see some decision; and although time has shown how anomalous they

were, some of them being rejected by higher courts; notwithstanding their confirmation, the commissioners went at times, according to the Californians, to extremes; some claims were confirmed by metes and bounds, sometimes by the restricted quantity granted; and as the counsel employed in this case was adhering to that last view, they advised the designation of the land claimed by means of a preliminary survey. That survey being made, and by their own selection, like enough they wanted more land, and to secure it adopted those means, and for a great length of time I heard of no complaint, until hearing (they the heirs) that other grants had been confirmed to the full extent of the name of the locality, and that they were going to appoint other counsel—Mr. Horace Hawes—to claim the whole tract known as Laguna de la Marced.

13. Did you ever hear of any objection upon the part of the
503 heirs, or any of them, to the location of the half league as made by Ransom, until about the time they employed Hawes to claim the whole quantity?

Ans. I have just stated that it was long after, and just on that account that they commenced to kick against that survey. I told them "you have but the opinions of Mr. Hawes; I have mine; and that you are precluded by your own acts; you have my best wishes for the whole; and since, I have not had anything to with it.

14. Was not your first conversation with Argenti about locating the school warrants, after the return of the preliminary survey made by Ransom?

Ans. The reason alone shows that the survey has preceded, and the records will show that prior to that scheme of Argenti's, the heirs had located or selected. My first conversation with Argenti was long after the survey.

15. What reason did Clarke, Taylor & Beckh assign to you for desiring to have a preliminary survey made?

Ans. If I remember right, it was the not well defined loca-
504 tion of the rancho.

16. Did they request you to have designated upon the plat the particular half league which the heirs might select?

Ans. The counsel merely advised to have the survey made in accordance with it. The application was made to the surveyor general; Surveyor Ransom appointed; and I dare say that, when he went, neither the counsel nor the surveyor knew any more than I did, who knew nothing at all of where the land was, or the extent of the tract that they knew as Laguna de la Merced, any more than that it was in the vicinity of the portezuelo, Noe's rancho, the laguna, etc.

17. After the exterior lines were run, and it was ascertained that the whole tract exceeded a half league, what direction did you give to Ransom, or to Brown, or Denniston, in respect to the location or selection of the half league?

Ans. I have not the slightest idea that such a thing has emanated from me. It must have been from the counsel who was attending to the case, examining the papers in the archives, although I
505 well remember that I insisted that if they were restricted to

the half-league, they had the right of selection, and from that my saying to Mr. Ransom that the heirs would show the spot they claimed.

18. Did or not Brown and Denniston, or one of them, afterwards state to you that they had designated the particular half league located by Ransom?

Ans. I had from their mouth that they had been carrying the chain, the flagstaff, and been all over the ground, and one of the uncles—one Sanchez.

19. After the said plat was made and completed, did you not hand it to Clarke, Taylor & Beckh to use before the land commission?

Ans. I do not know whether on coming from the mission where I resided, and where I had it a couple of days to show it to the parties, whether I handed it to the lawyers going through Clay street, or whether I took it through Merchant st. to Montgomery block, where my office was, being in the employ of the government as the custodian of the archives with the surveyor general, and our desks—
506 Mr. Ransom's and mine—being almost elbow to elbow; but under any circumstances, the day I brought it down it went to the counsel, for all parties at that time seemed to think more of it than they do now.

20. Before delivering it to the counsel did you show it to Brown and Denniston?

Ans. They both saw it and talked about it at my house, and even the women were anxious to get a look at it.

21. Who do you mean by the women you speak of?

Ans. Some of the heirs, who frequently visited my house.

22. What reason, if any, have you to believe that all the heirs knew of the said survey?

Ans. Many. The reasons are that they all lived at the mission Dolores; that the leaders were the husbands of the heirs; that they went to the survey themselves; that they designated it; that their residence did not extend over fifty varas from each other; that the Spanish fair sex is just as curious and inquisitive as that of all na-
507 tions through which I have travelled; that the ladies were the true parties in interest; and as to the male line, one was a mere boy at the time, and the other a youth of some eighteen, living with his brother-in-law, Mr. Chas. Brown.

23. When you showed the plat of the survey to Brown and Denniston, did they make any objection to it?

Ans. None that I know of. They explained the map to me, not I to them; for I asked particularly where was the lake house, and Chas. Brown replied by laughing and saying, "That has nothing to do with it. That is my own." I did not require any more to be convinced of their approval at the time in view of its being their own act—of their surveying lands adjoining it to cover it with school warrants by their own avowal, and because I had in my possession a document signed by their father, Francisco de Haro, deceased, referring before a Mexican authority the lands he had purchased from Galindo, who was the former grantee.

24. What complaint, if any, did Denniston make because the lake house was left out of the said survey?

508 Ans. They did not constitute me judge; they might have had differences, but I did not know of any.

25. Did Brown or Denniston, about the time that Argenti located school warrants upon the land, make any complaint to you or intimate in your presence, or to your knowledge, that you and Argenti had entered into a conspiracy to defraud them of their lands?

Ans. I don't know the time when Argenti located, if he ever did locate; I have stated before that at one time—and it may have been, for what I know, when Argenti may have had a survey made—that Mr. James Denniston has said something about it; and it was then that I told him about the dog in the manger, and that the Mexican grant took precedence over school warrants and pre-emption. I am inclined to believe that that remonstrance of Mr. Denniston's, if called by that name, took place after they were made to hope to get the whole; and when making to him the confession that I might, but had no share in it, he said that everybody knew that Argenti, or somebody else, were selling school warrants for those lands.

509 26. At the time of Ransom's survey what was your opinion, the opinion of Clarke, Taylor & Beckh, and also the opinion of Brown and Denniston as to the quantity of land which the heirs were entitled under the grant and title papers?

Ans. I know for certain my opinion, which was, and still is, that they were entitled, under our government, to every inch of land that they were entitled to from the Mexican government, but no more. I am willing to believe that such was the opinion of the counsel, if, like myself, they were law-abiding citizens. As to Messrs. Brown & Denniston, I need not pass any opinion; their own acts show conclusively that they designated the half league they claimed, and no more. I construed their title to be for no more than half a league. Clarke, Taylor & Beckh told me repeatedly that they could not obtain more than the grant called for—that is, half a league. Brown and Denniston did not claim more than half a league to my knowledge.

Questions by counsel for intervenor Mahoney and claimant.

Ques. 27. When did your duties cease as administrator of

510 the estate of de Haro?

Ans. Some two or three years ago. Chas. Brown was appointed in my place.

28. At the time of the Ransom survey, how did it come to your knowledge that a selection was necessary to be made, and when?

Ans. It was not my suggestion; it must have been that of the counsel. I knew nothing about it until after the survey was made. Ransom told me that he had run the exterior lines, and the same to the counsel, who wanted the designation of the land petitioned for.

29. Did you see the plat of the survey before the lines of the half league were run?

Ans. I must have seen it.

30. Did Ransom require of you, as administrator, to make a selection of some particular half league?

Ans. He did not.

31. Had any one else except yourself the right to make the selection on the part of the heirs you represented?

511 Ans. I don't know who could have a right but the parties in interest. Had I understood that it was a thing to be acquired I would have applied to the court in behalf of the minors; I construed that it was the designation of a ranch that existed, and not a new selection of land.

32. How long after the survey was it that the prosecution of the claim was altered from quantity to boundaries?

Ans. It was some two or three years after the survey, to the best of my recollection.

33. Do you not recollect that in 1853 the land covered by school warrants of Argenti was offered at public auction by Wainwright, Randall & Co., and that the property was withdrawn in consequence of a protest made by the heirs?

Ans. I have no recollection of it whatever. I was a great deal absent from San Francisco about that time, in Santa Clara.

34. Were you absent from the city in June, 1853, if you recollect?

512 Ans. I was absent from San Francisco the greater part of 1853, and some months of the year 1854.

Questions by counsel for the U. S.

Ques. 35. When Ransom's survey was made, locating the half leauge, were you, as administrator of the estate and guardian for two of the minor heirs, satisfied with the location?

Ans. When the survey was made I was attorney, in fact, for some members of the family, and administrator; whether I was guardian in 1853, or afterwards, I don't remember; I did not consider that I had anything to do with it. I have stated that I thought the rancho was in existence, and they, the parties in interest, were merely showing it. Were I to have construed that I was to select land for a minor, I would, besides paying my strictest attention, I would have imparted the protection of the court.

36. For what purpose did you understand the half league was designated on the plat within the exterior limits?

Ans. To separate the private from the public domain.

Deposition closed.

RAMON DE ZALDO.

513 Sworn to and subscribed this 5th day of September, 1862, before me.

W. H. CHEVERS, *U. S. Com.*

Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

Deposition of Edward Conway, on part of claimants and intervenor Mahoney.

In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* JOSEFA DE HARO *et al.* } In land cases, dist. court, No. 380.—Land com., No. 102.

Be it remembered that on this 11th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared Edward Conway, a witness produced in behalf of the int.
514 Mahoney and claim't in the above-entitled cause now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows.

Present: S. A. Sharp, esq., for int. Mahoney and claimant, and W. H. Sharp, U. S. att'y, for the U. S.

Question in behalf of the int. Mahoney and cl'm't.

Question 1st. What is your name, age, place of residence and occupation?

Ans. My name is Edward Conway; I am of lawful age; I reside in San Francisco; I am chief clerk in the office of the U. S. surveyor general for California, which position I have held for over three years.

2. Please look at the document marked Exhibit C, annexed to your affidavit, forming part of the petition for re-hearing in this case. State how it came into your possession, and in whose custody it was until it was filed with your affidavit herein.

Ans. This paper was found in the desk belonging to the
515 chief clerk of the office by me some time after I had taken charge of that desk. I referred it to Surveyor General Mandeville, who ordered me to file it in my safe, where it has been in my custody until it was filed here.

3. Look at Exhibit Clarke, No. 1, annexed to the deposition of Jeremiah Clarke. State whether you had found in the records of the surveyor general's office the original of that exhibit; if so, state in whose handwriting it is.

Ans. I have found in the papers in the office the original, and think it is in the handwriting of Jeremiah Clarke.

4. State whether you have found among the records of the surveyor general's office the instructions to Leander Ransom, as deputy

surveyor, for the execution of the preliminary survey of the rancho Laguna de la Merced?

Ans. I have; a copy of the same now produced, made by the commissioner, will be annexed to this deposition, marked Exhibit Conway, No. 1.

5. State if there are on file in the surveyor general's office any instructions from the department at Washington with respect
516 to preliminary surveys of lands claimed under Mexican grants; and if so, state their date, when received, and give such extracts from them as are pertinent to this question.

Ans. I find a letter of instructions from the General Land Office, dated February 19th, 1853, in answer to one from the surveyor general of the 12th January, 1853, from which last letter it appears "that the commissioners decline issuing upon the applications of the parties any more of the orders for initiatory surveys contemplated by the instructions; that your views as to the benefits which would have resulted from such surveys being made in all cases are strengthened by each day's experience; that parties have lately applied to you to know how they were to proceed, where they could not procure orders of survey from the commissioners, and yet where they thought that there was an absolute necessity for such a survey to show the lands claimed and elucidate their title papers and testimony." The department in their letter decided that the surveyor general's action was right and approved it, and that such surveys should be made at the expense of the parties. The papers upon which such ini-
517 tiatory surveys were to be made were to be obtained from the land commissioners.

6. Do you find in the surveyor general's office and instructions from the department at Washington, with respect to the sectionizing of public land in the vicinity of lands claimed under Spanish grant; and if so, state when those instructions were dated, when received, and give such extracts as are pertinent to this question.

Ans. In the letter referred to in my last answer, dated February 19th, 1853, a copy of which to be made by the commissioner is hereunto annexed, marked Exhibit Conway, No. 2, I find instructions of that nature.

7. Do you find in the records of the surveyor general's office any instructions authorizing the surveyor general to sectionize within the exterior boundaries of land claimed under a Spanish grant before the confirmation of the claim?

Ans. I do not.

8. Do you find any instructions authorizing the surveyor general to sectionize after confirmation?

518 Ans. I find special instructions from the General Land Office respecting the survey of private land claims, dated November 28, 1855, instructing how the surveyor general shall proceed where the diseño of the land claimed contains more area than that called for in the confirmatory decree; and also with reference to the extension of the public lands, a copy of which, marked "A," is annexed to my affidavit forming part of the petition for re-hearing in this case.

9. Mr. Leander Ransom, in his deposition, taken September 4th, 1862, states that he is under the impression that the copy of the plat of his preliminary survey was filed in the land commission in the fall of 1853. Please produce the original plat filed in the land commission, of which a copy is contained in the transcript herein; and state when it appears to have been filed, and by whom.

Ans. This is the original plat filed in the land commission, and is marked "filed in office July 12th, 1854, Geo. Fisher, sec'y."

10. Mr. Ransom, in the same deposition, says he recollects one instance of a preliminary survey, like the one he made in this
519 case, that is, showing the segregation of the quantity granted within the exterior boundaries claimed, and refers to the preliminary survey of the rancho Arroyo de la Alameda, claimed by José de Jesus Vallego. Produce the plat of that preliminary survey from your office; state if it shows any segregation within exterior boundaries, and whether the plat bears any official approval?

Ans. I produce the plat; it shows only the exterior boundaries, and bears no official approval. There are no lines of segregation that I can see.

11. Have you, as chief clerk in the surveyor general's office, any knowledge of there being among the records any plat showing a preliminary survey where a segregation of a specific quantity within exterior lines, except in the case of the Laguna de la Merced?

Ans. I have no knowledge of any preliminary survey where the exterior lines of the rancho being run as claimed, and a quantity set off within the same, that the remainder has been subdivided as public land.

520 12. Have you searched the records of your office for the instructions issued to Robert B. Hays, June 10, 1854, to sectionize the land inside the exterior lines of the survey of the Laguna de la Merced, and to sectionize the fractional townships adjoining the ranchos of Maximo Martinez, Cañada de Raimundo, and San Gregorio?

Ans. I had searched the records, and find no contract or instructions relating thereto.

13. Do you find anything in the records to show that such surveys were made?

Ans. I find in the records plats of townships 3 south, ranges 5 and 6 west, adjoining the de Haro rancho, surveyed by Rob't B. Hays, surveys executed between the 10th and 29th June, 1854, approved by the surveyor general on the 29th June, 1854, copy thereof sent to the U. S. land registrar June 30th, 1854, and copy to Washington on the 31st December, 1854. I also find plats of townships 5 and 6 south, range 4 west, adjoining the Cañada Raimundo and Corte de Madera ranchos, both executed by Robert B. Hays between the 10th June and 1st of October, 1854, copies sent to registrar 14th March, 1855, copies sent to Washington 31st December, 1854. Townships
521 No. 6 south, range 4 west, is marked "suspended on acc't of private grants, errors in survey." The final location of the San Gregorio and Arroyo de la Purissima ranchos comprise a portion

of this subdivided township. Township 3 south, ranges 5 and 6 west, are also marked "suspended on account of private grants." These suspensions were had before I had charge of the chief clerk's desk. The account of Rob't B. Hays, for the execution of the above surveys, was approved by the surveyor general on the 31st of December, 1854.

14. Is it in the usual course of business for the surveyor general to approve a survey on the same day that the survey was completed, to send a copy to the land registrar on the next day, and to withhold the copy from the department at Washington until five months afterwards, as appears to have been the case with respect to the lands sectionized by Hays within the exterior lines of the Laguna de la Merced?

(Objected to as incompetent, irrelevant, and leading.)

522 Ans. I cannot answer as to the usual course of business under former surveyors general. From my experience it would be rather quick work. Since I have been in the office the practice has been, after a careful examination of the field-notes and plat, to forward a copy to the department at Washington, and afterwards a copy to the registrar. There may be cases where copies have been sent to both offices on the same day.

15. Mr. Ransom says, in his deposition, that when he left the surveyor general's office there were instructions in that office authorizing such surveys as were made by Rob't B. Hays, before referred to; have you any knowledge of other instructions than those before referred to which would cover this class of surveys?

Ans. I have not.

16. Have you any knowledge of school warrants having been located on the lands sectionized by Robert B. Hays, before referred to?

Ans. I have none whatever.

523 *Cross-examination — Questions by counsel for the U. S.*

Ques. 17. What connection, if any, had you with the surveyor general's office in the years 1853 and 1854?

Ans. None whatever. I first went into the office as field-note clerk in September, 1857.

18. Can you state, from the records in said office, what date the field-notes of Ransom's survey of the rancho Laguna de la Merced were approved by the surveyor general?

Ans. On the 22d of September, 1853.

19. What time was the plat of the survey approved by him?

Ans. On the same date.

20. Are the instructions from the General Land Office to the surveyor general, dated 19th February, 1853, referred to in your examination in chief, the only instructions in the surveyor general's office from the land department, in respect to initiatory surveys of private land claims?

524 Ans. After a careful examination, these are the only instructions relating to the surveys of this class of cases. There

is another letter of a subsequent date, referring to the mode of payment for such surveys.

21. Is there in the surveyor general's office any copy of the letter of Surveyor General King to the Commissioner of the General Land Office, to which the letter of February 19, 1853, from the General Land Office, is a reply?

Ans. There is a record of all official correspondents from the commencement of the office, and I presume a copy of this letter can be found in it.

22. Are there in the surveyor general's office any general instructions in respect to the surveys of confirmed private land claims, or of public lands contiguous to private claims, other than those of the 28th of November, 1855, annexed to your affidavit on file in this case?

Ans. There are other instructions stating that the plats of surveys of private land claims must exhibit the same in connexion
525 with the surveys of contiguous public lands; that is to say, the position of the ranch lines must be shown in connexion with the nearest monuments on the public lines whenever the ranch line crosses the same, but I do not think there are any other general instructions as to the segregation of the public domain from that of private land claims than those of November 28th, 1855.

23. In your examination in chief you state that you know of no other instance than that of the Laguna de la Merced in which an initiatory survey has been made under the authority of the surveyor general, locating within the exterior limits the particular quantity claimed. State whether or not you have examined every survey ever made and returned to the surveyor general's office to ascertain this fact, or only that you give it as your impression, and from your general knowledge of the business of the office.

Ans. By reference to my answer to ques. 11 it will be seen what I stated in my examination in chief. I have examined all the preliminary surveys on file in the surveyor general's office, and I
526 have no knowledge of any subdivisions of public lands being made within the exterior lines as claimed and surveyed, except in this case. The field-notes of Col. Ransom of the exterior lines of this rancho, as the same appears upon the plat, being headed as follows: "Survey of the Rancho de la Merced. Field-notes of the survey of the tract of land claimed by the heirs of Francisco de Haro under a Mexican grant."

24. Do not the said field-notes also show that after running the exterior lines he surveyed the half league, as shown upon the plat, and are not the field-notes of the said half league returned with and form part of the said survey?

Ans. They are all in the same.

25. Are there in the surveyor general's office any other initiatory surveys in which the quantity claimed has been located by said survey within the larger exterior limits? If so, specify in what cases.

Examination adjourned until 3 p. m. to-morrow.

527 SAN FRANCISCO, *September 12th*, 1862.

Examination of Edward Conway resumed from yesterday.

Present, all the parties.

Ans. to ques. 25. After an examination of the records for preliminary surveys, I find three cases in which the excess of quantity has been cut off—they are the ranchos "Las Juntas," "Las Capitancillos," and "San José."

26. Do you know whether or not the claim for the rancho Arroyo de la Alameda was a claim for a definite quantity within larger exterior limits, or whether it was a claim for all the land within the limits?

Ans. It was a claim for four square leagues, and was confirmed and patented.

27. Do you know the dates of the preliminary surveys to which you have referred?

Ans. I do not; I think, though, they were all made in 1852, 1853, and 1854.

28. In answer to ques. 13 you state that the survey of
528 township No 6 south, range 4 west, is marked suspended on account of private grants, errors in survey, and that the surveys of township 3 south, ranges 5 and 6 west, are also marked suspended on account of private grants. State what evidence there is in the records of the surveyor general's department that the said surveys were suspended.

Ans. The face of the plat shows the fact, and the certificate of the surveyor general on the monthly reports of lands located, sold, etc., made by the U. S. land register, also shows the fact. There is no copy of those certificates or reports kept in the surveyor general's office.

29. How do you know that these surveys were certified by the surveyor general to be suspended?

Ans. I think they were made after Surveyor General Mandeville came into office, in 1857, and these certificates came under my supervision.

30. Are not the marks upon the said plats, indicating that the surveys were suspended, made in pencil on the margins of the plats, and without any signature?

529 Ans. They are; that is the practice in the office in all cases of suspension.

31. Do you know in whose handwriting are the said pencil-marks, and when they were placed upon said plats?

Ans. I do not.

32. Were not copies of the said plats certified by the surveyor general, and transmitted to the register of the land office as plats of surveyed public lands subject to entry?

Ans. Yes, sir; I have before so stated.

33. In answer to ques. 14 you say, "It would be rather quick work for the surveyor general to approve the plat of survey on one day, and transmit a copy of it to the register the next day." What reason is there why a plat of an approved survey should not be transmitted to the register as soon as it is approved?

Ans. The counsel misstates my answer. I stated that the record shows that the survey was executed in the field between the 10th and 29th June, 1854. Now, as the deputy could not have re-
530 turned from the field until the 29th June, 1854, and as his field-notes would have to be examined, a map protracted, and a copy made for the register, I thought that the space of one day was rather quick work. The surveyor general could approve the plat on the 29th, and a copy could readily be sent to the register on the 30th.

34. Do you mean to say that it would be a difficult task to accomplish the work within that period?

Ans. I do.

35. Is there any regulation of the land department, or any law within your knowledge, requiring plats of approved surveys of public lands to be transmitted to the land office at Washington before they are transmitted to the register?

Ans. It is my impression that the instructions are to forward a copy to the land office and the register, indicating, if possible, that both should be sent on the same day. Since I have been in the surveyor general's office the custom has been to transmit the Washington
531 copy first, and a copy to the register as soon thereafter as possible. There are some instances in which both copies have been sent the same day. I see no reason why, if necessary, the plat should not be sent to the register before it is to Washington.

36. Is it not the duty of the surveyor general to transmit a copy of the plat to the register, with as little delay as possible, after the survey is approved?

Ans. Yes; as soon as the business of his office will allow him.

Deposition closed.

E. CONWAY.

Subscribed and sworn to this 12 day of September, A. D. 1862, before me.

W. H. CHEVERS, *U. S. Com'r.*

Exhibit of E. Conway, No. 1.

Exhibit Conway, No. 1, annexed to deposition of Edward Conway.

(Copy.)

U. S. SURVEYOR GENERAL'S OFFICE,
San Francisco, Cal., June 10th, 1853.

SIR: At the request of the heirs of Francisco de Haro, who
532 claim the "Rancho de la Merced," you are hereby appointed to execute a preliminary survey of said rancho, as claimed by them. In the archives of the office there is a record of proceedings in relation to the claim referred to by the attorneys of said heirs. The copy of the patent, entered in the book of "Titulos," shows that the tract was originally granted on the 27th Sept., 1835, to José Anto. Galindo, by José Castro, chief member of the exc't territorial deputation, and political chief ad interim of the Territory

of Upper California. Its extent is one league in length by one-half league in width, which is equivalent to half "sitio de ganado mayor," or half a league. With regard to the boundaries, reference is made to a plat annexed to the expediente, a copy of which is herewith enclosed for your guidance. The name given to the tract in patent is "Laguna de la Merced."

Before executing the survey you will, if advised of there being any adjoining claimants under alleged Spanish or Mexican titles, notify them, in writing, of the time when you will be running any line in which they may be interested, and you will make full and accurate entries in your field-book of any objections which
533 may be made to any of the lines, and return to this office any protest or documents which may be offered to you for that purpose.

You will also survey and return the notes of any lines which any opposing parties may contend to be the lines of separation, and for which they may be willing to compensate you; and where any line is an agreed line, that fact must be noted, as also the names, in full, of the persons consenting thereto.

You will establish each corner and mark each line in the manner required in executing public surveys, except that instead of marking your posts and bearing trees with sectional numbers, you will designate them with the letters F. H., and number the corner posts in regular numerical order.

Your field-book will be kept in the same manner, and furnish all the information required in performing public work, carefully noting the variation of the needle, to ascertain which you should make frequent observations.

The survey must be made with reference to the meridian, and by chains and links, testing your chain by the standard in this
534 office before you proceed to the work.

You should be particular in your running and calculations so as to preclude the necessity of a revision of the work in the field at any time hereafter.

Yourself and assistants will qualify in the same manner as if executing public work, and the evidence thereof returned with your notes.

The notes to be accompanied by an accurately protracted map of the survey, on a scale of 40 chains to the inch, and also by all observations and calculations in detail having reference to the ascertainment of any line or the area of the tract.

Understanding you have made an arrangement with the claimants as to your compensation, it will only be necessary for me to state that under no circumstances will this office be responsible for, or compensate you for, any services connected with the execution of this order.

You will consider the square league to contain 4,340 and $\frac{279}{1000}$ acres.

The survey should be connected with one or more points of any line or lines of the general survey of the public lands.

535 It is to be expressly understood that by authorizing this

survey it is only intended to comply with the wishes of the parties, or intended to exhibit a survey of the lands they claim, and not as expressing any opinion whatever, on the part of this office, as to the merits or validity of the claim.

Very respectfully,

(Signed) SAM'L D. KING,
Surv'r Gen'l, Cal.

L. RANSOM, Esq.,
Dep'y Sur.

A true copy.

W. H. HEVERS,
U. S. Comm'r.

Exhibit of E. Conway, No. 2.

"Exhibit Conway, No. 2," annexed to deposition of Edward Conway, A.

GENERAL LAND OFFICE,
February 19, 1853.

SIR: Your communication of the 12th ultimo reached me to-day. You state that you "understand that the comm'rs decline issuing upon the applications of the parties any more of the orders for initiatory surveys contemplated by the instructions;" that your "views as to the benefits which would have resulted from such
536 surveys being made in all cases, are strengthened by each day's experience;" that "parties have lately applied to you to know how they were to proceed where they could not procure orders of survey from the commissioners, and yet where they thought that there was an absolute necessity for such a survey to show the lands claimed and elucidate their title papers and testimony;" that "under such circumstances"—

(1st.) You "have, upon full consideration, determined to proceed in all such cases in the same manner as if the formality of obtaining an order from the commissioners had been complied with, knowing that both public and private interests would be promoted by such a course; the claimants, as a matter of course, paying for the field operations."

Your determination in this matter was right, and is hereby approved.

You next refer to a class of cases which have been confirmed by the commissioners, "but where no preliminary surveys were made under the direction of" your "office prior to confirmation."

537 You refer to the act of 3d March, 1851, making it the duty of the surveyor general's office to survey the claims after they are "finally confirmed;" and to the 12th section of the act of 31st August, 1852, making it the duty of the commissioners, when they "shall render a final decision," to sendtranscripts to the Attorney General and clerk of the district court, with a view to the taking an appeal should it be determined upon to do so, and state --

(2d.) That "in all such cases" you "have refused to grant an order for an initiatory survey," even at the expense "of the parties when applied for by them, but yet" you "are rather in doubt as to making the surveys of these lands at the expense of the United States, as finally confirmed claims."

The confirmatory decision of the board is not of itself a final and conclusive one under the law, unless it becomes absolute, either by the final affirmance of the judiciary on appeal, or becomes so by reason of the appeal not being prosecuted on the part of the United States within the time specified in the 12th section of the act of 31st August, 1852, and therefore, in view of the proviso in the appropriation
538 act of 31st August, 1852, (U. S. Statutes at Large of 1852, page 99,) you have not the power to survey claims of this category at the expense of the United States, unless "in the gradual extension of the lines of the public surveys" you "shall find" the land "within the immediate sphere of" your "operations," and which you are "satisfied ought to be respected and actually surveyed in advance of confirmation."

But you can, and in my judgment should, authorize the initiatory surveys of such claims at the expense of the parties, where not within the "immediate sphere" of your operations; this view being fully sustained by your decision as stated under the first head in the foregoing, and there approved.

In all cases in which you may be called upon by the parties to survey at their expense claims which may have been confirmed by the commissioners, or which in the gradual progress of the public surveys you may be authorized to pay for out of the government funds, under the restrictions of the said proviso of the act of 31 August,
539 1852, (U. S. Statutes of 1852, page 99,) you are directed to call upon the board of land commissioners, who are hereby authorized to furnish you "not only with their certificates of confirmation, but also, after recording the same, as required by law, with the evidence of title and the testimony in each case, to guide it in the execution of the work;" and you will either exhibit these original instructions to the commissioners, or furnish them with a copy, as your warrant for making the call upon them for such papers under the express directions of the office.

Very respectfully, your ob't servant,

JOHN WILSON,
Commissioner.

SAM'L D. KING, Esq.,
Surveyor General, San Francisco, California.

A true copy.

W. H. CHEVERS,
U. S. Comm'r.

Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

540 *Dep. of Wm. H. Green, on part of claimants and intervenor Mahoney.*

In the district court of the United States for the northern district of California.

THE UNITED STATES *vs.* JOSEFA DE HARO. } In land cases.—Dist. court, No. 380.—Land com., No. 102.

Be it remembered, that on this 16th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared William H. Green, a witness produced in behalf of the int. Mahoney and cl't in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows.

Present: S. A. Sharp, esq., for int. Mahoney and claimant, and W. H. Sharp, U. S. att'y, for the U. S.

541 *Questions in behalf of the int. Mahoney and cl't.*

Question 1st. What is your name, age, and place of residence?

Ans. My name is William H. Green; my age is 37 years; I reside near the Ocean House, San Francisco county, where I first went to live in the latter part of 1851.

2. Look at the document now shown you, to be annexed to your deposition, and marked Exhibit Green, No. 1, which exhibit is a certified copy of a pre-emption claim of A. A. Green, Chas. Brown, and W. H. Green, and state whether you are the same W. H. Green mentioned in said exhibit?

Ans. I am.

3. Look at the document now shown you, to be annexed to your deposition, and marked Exhibit Green, No. 2, which exhibit is a certified copy of the pre-emption claim of Robert E. Green, Benjamin S. Green, and Daniel Green, and state if you know those parties?

Ans. I do; they are brothers of mine.

542 4. State all the circumstances within your knowledge connected with the taking up and locating of said claims, and by whom surveyed.

Ans. A short time after my arrival in California I became acquainted with Chas. Brown, who stated to me that he had been a great many years in the country. I asked him if he was acquainted with the lands about the country, telling him that I wanted to go to farming, and get a piece of public land if there was any. He took me out in the neighborhood of what is now known as the Lake House; he said that was public land; that his wife was one of the de Haro; and pointing off

in a southerly direction, said that was the de Haro ranch. Brown said he would pre-empt with me; that he knew my brother Alfred, and that he would see me the next morning at the mission. I met him at the mission the next morning; we, together with my brother Alfred, went out there; walked along on the east side of the ground; made a sketch of it. There was a surveyor there at the time whom I did not know. We came into town the same day and filed our
543 claim; I will not be positive whether it was the same day, or the day after, that we came into town. Some time after I applied to Chas. Brown to have a division made, asking him for the southern extremity of the claim. He said no; that his wife owned a seventh interest of the de Haro rancho, and that he wanted that place himself, so as to adjoin his wife's property. He said there was other land just as good on the claim, and went and showed it to me. He took me over and showed me what is now called Lake Puerca. I located myself there, and told him I would take that side. I went to work, built a shanty, and put in a crop. After that, other parties wanting to come in, we had a survey of the whole tract made, and I made my selection of the same land I now occupy. We found on clearing up the land that there was more ground than we supposed, and my brothers, with others, came and took up claims also. Mr. Ecker made the survey I have referred to.

5. How was it ascertained at that time what was the northern line of the tract claimed by the de Haro?

544 Ans. I don't know anything more than what Brown and my brother Alfred told me.

6. Do you recollect when the Ransom survey was made?

Ans. I recollect seeing two or three men there making a sketch, and I was told they were surveying the land.

7. Look at the plat of the initiatory survey filed in the land commission, and designate on that plat by a line or lines the tract located by yourself and brothers, and the other parties you have mentioned, prior to the time of the Ransom survey?

Ans. It extended from my house to some distance south of the "road to the lake house," as shown on the map. My house is the northernmost house shown on the plat. At a subsequent division Brown took the land where the lake house is, and between the two arms of the lake, while my brother and myself retained the land north of the northern arm of the lake.

8. State the character of the land at that time covered by
545 the pre-emption claims mentioned.

Ans. It was all covered with a kind of chapperal, and we had to cut it off and grub it up at considerable expense; the first year I paid $700 for grubbing.

9. State the character of the land at that time south of the tract covered by these pre-emption claims, and as far south as the Laguna Alta and Laguna San Bruno.

Ans. After leaving the southern end of the lake, it is the best grazing and farming land I have ever seen in the State; it was covered with cattle at that time, and well watered. From the south end of

the lake up towards the San Francisco road, and in that direction, the soil is sandy, unfit for cultivation, and similar to the land occupied by us.

10. In making your location at that time, why did you not select the good land you have described in preference to the land you did take?

Ans. From the fact that my brother and Cha's Brown told
546 me that it was the de Haro claim.

11. Has the tract located and settled on by yourself, brothers, and Brown, since been improved? If so, to what extent and value?

Ans. There have been very extensive improvements there; I should not think $30,000 would begin to cover their cost.

Cross-examination.—Questions by counsel for the U. S.

Ques. 12. Have you ever taken any steps to pre-empt, except to make a paper of which Exhibit Green, No. 1, purports to be a copy?

Ans. Yes, sir; I filed the pre-emption in the register's office in Benicia in 1853.

13. Did you ever pay for your land?

Ans. No, sir.

14. Where is the original pre-emption claim of which Exhibit Green, No. 1, is a copy?

547 Ans. It was filed in the county recorder's office.

15. Do you know that it is a correct copy?

(Objected to because the certificate of the county record is the best evidence.)

Ans. I believe the description of the land to be the same as we took up.

16. Do you know, of your own knowledge, that Rob't E. Green, Benjamin S. Green, and Dan'l Green executed the paper of which Exhibit Green, No. 2, is a copy?

Ans. I do.

17. How far north of the Laguna de la Merced is the Laguna Puerca?

Ans. I should think between a quarter and a half mile.

18. Have you ever bought any interest in the Laguna de la Merced property?

Ans. No, sir; I own none of it.

548 19. At the time that Ransom made his survey did you not know that he had included your pre-emption claim in the de Haro ranch?

Ans. I did not at that time; I first knew it some time afterwards.

20. Did you speak to Brown about it?

Ans. Brown spoke to me about it. Brown said that they now claimed all the land from the Buriburi rancho to the ocean; thence around by the beach to the San José road. My brother Alfred spoke up, and said that it would not amount to much, for they could not get more than de Haro bought of Galindo. This was about 1855 or

1856. That is all that I ever heard about the de Haro claim, where I am, until recently.

21. In June, 1853, was not the land from the Laguna Puerca to the southern extremity of Laguna de la Merced, with its improvements and with its lake privileges, more valuable than the land south of the Laguna de la Merced?

549 Ans. I should think not. There were not much improvements there at that time.

22. In your answer to ques. 11 you speak of $30,000 as not being equal to the cost of improvements that were put upon the land. Do you think those improvements are now worth $30,000?

Ans. My judgment is that the improvements that are there now could not be put on for $30,000 now.

23. Have you, or your brothers, or Chas. Brown, ever pre-empted any other land than that described in Exhibit Green, Nos. 1 and 2?

Ans. I never have. For Chas. Brown and the others I cannot speak.

24. Did not Benjamin Green and George Green, your brother, pre-empt some land south of the Laguna de la Merced where the good land that you have described is?

Ans. I don't know.

25. What was the market value of land per acre, from the Laguna Puerca to the southern end of the Laguna de la Merced, in

550 June, 1853?

Ans. I could not tell. I never knew of any sale there except some improvements. I sold to my brother.

26. Where does your brother Benjamin Green now live?

Ans. He lives on the farm of Alfred A. Green, adjoining mine; previous to that he lived back of the lake house. When I went home in 1861 he was living in San Mateo.

27. Did Benjamin and George Green ever live upon the good land which you have described south of the Laguna de la Merced?

Ans. I know of Benjamin Green living there.

28. Do you know of Benjamin Green ever pre-empting there?

Ans. I do not.

29. Do you know of Alfred A. Green ever selling a piece of land south and west of the Laguna de la Merced, adjoining land

551 occupied by Benjamin Green?

Ans. I do not. I know he had a piece of land over there; what he did with it I do not know.

30. Do you know whether Daniel Green or any of your brothers have bought any land belonging to the de Haro estate?

Ans. I do not.

31. Do you know whether any of your brothers bought any land of John Middleton?

Ans. I do not.

32. Do you know of any sales of the rich black land south of the Laguna de la Merced having been made at any time?

Ans. I do not know of any.

Deposition closed.

W. H. GREEN.

Subscribed and sworn to this 16th day of September, A. D. 1862, before me.

W. H. CHEVERS, *U. S. Com.*

552 Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

Exhibit Green, No. 1, to deposition of W. H. Green.

A. A. Green, Charles Brown, and W. H. Green.—Pre-emption claim.

Claim of Alfred A. Green, Charles Brown, W. H. Green, commences at the NE. extremity of the Haro rancho, situated in the county of San Francisco, and between the San José road and the Pacific coast; thence along the southerly and westerly line of J. J. Noe's rancho de San Miguel, 130 chains to summit of high hill on west side of Presidio road, and north of deep ravine, with stream running into Laguna Puerca, said line bearing N. 12° W.; thence N. 82° W., 110 chains to sea-coast; thence along coast southerly, 64 chains—southerly more or less to northwestern corner of the Haro rancho; thence along the northern line of said rancho easterly to place of beginning, 125 chains, more or less; said line bearing N. 86° 18′ E., containing 544 acres, more or less.

Surveyed February 10th, 1852.

553 Witness the name Russell C. Perkins erased on the second line from top.

M. E. FLANAGAN.

ALFRED A. GREEN. [SEAL.]
CHARLES BROWN. [SEAL.]
WILLIAM H. GREEN. [SEAL.]

CITY AND COUNTY OF SAN FRANCISCO, *ss:*

On this 16th day of February, A. D. 1852, before me, personally, Alfred A. Green, Chas. Brown, and Wm. H. Green, to me known, and they acknowledged that they executed the within instrument freely and voluntarily, and for the uses and purposes therein mentioned.

Witness my hand and seal this Febr'y 6th, 1852.

[SEAL.] M. E. FLANAGAN,
D. C. Recorder.

The preceding is a true copy of the original, recorded at the request of A. A. Green and others, Feb'y 16, 1852, at 10 of a. m.

JOHN A. McGLYNN,
County Recorder.

I, Thomas Young, county recorder in and for the city and county of San Francisco, do hereby certify that the foregoing is a full, true, and correct copy of an original record now in my office, as will
554 appear by reference to liber B, Miscellaneous, page 225.

Witness my hand and official seal this thirteenth day of September, A. D. 1862.

[SEAL.]

T. YOUNG,
County Recorder.

Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

Exhibit Green No. 2, to depo'n of W. H. Green.

Rob't E. Green *et al.* to pre-emption claim.

Pre-emption claim of Daniel Green, Robert E. Green and *and* Benjamin S. Green, of a certain piece of land: commences at a post marked names of claimants, 150 y'ds east of house owned and occupied by Wm. H. Green and A. A. Green, situated as Lagoon Puerca, or Green's lake, running eastly along gully ½ mile, more or less, until it strikes westerly line, Jesus Noe ranch, following said line southerly one mile, more or less, till it strikes a post marked name of claimants, situated at the bend of gully; thence running westerly down
555 said gully one mile, more or less, until it strikes a post on the bank of Lagoon Merced, marked name of claimants; thence northerly to the place of beginning.

May 1st, 1852.

ROBERT E. GREEN.
BENJAMIN S. GREEN.
DANIEL GREEN.

The preceding is a true copy of the original, recorded Nov. 6, 1852, at 3 o'c. p. m., at the request of Daniel Green.

T. B. RUSSUM,
County Recorder.

I, Thomas Young, county recorder in and for the city and county of San Francisco, do hereby certify that the foregoing is a full, true and correct copy of an original record now in my office, as will appear by reference to liber B, Miscellaneous, page 411.

Witness my hand and official seal this thirteenth day of September, A. D. 1862.

[SEAL.]

T. YOUNG,
County Recorder.

Endorsed: Filed Jan'y 31, 1863.

W. H. CHEVERS, *Clerk.*

556 *Deposition of James G. Denniston, on part of int. Mahoney and claimant.*

In the district court of the United States for the northern district of California.

THE UNITED STATES
v.
JOSEFA DE HARO.

In land cases—Dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this 17th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm.

H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take deposition of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared James G. Denniston, a witness produced in behalf of the int. Mahoney and cl't in the above-entitled cause now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows:

Present, S. A. Sharp, esq., for int. Mahoney and claimant; and W. H. Sharp, U. S. att'y, for the U. S.

557 *Questions in behalf of the int. Mahoney and cl't.*

Question 1st. What is your name, age, and place of residence?

Ans. My name is James G. Denniston; my age is 37 years; I reside at Half Moon bay, San Mateo county.

2. Did you marry one of the heirs of the late Francisco de Haro? If so, state whom and when.

Ans. I married Josefa de Haro, the widow of Guerrero, and daughter of Francisco de Haro, on the 12th of February, 1853.

3. Mr. Ransom, in his deposition taken September 4th, 1862, states in answer to the 4th question, that after receiving the plat of the initiatory survey from de Zaldo, on which plat was marked in pencil the half league tract, he went on the ground in company with yourself, and run the lines, and set the posts, to correspond with the half league. State all you know with regard to the circumstance stated by Ransom.

Ans. De Zaldo was administrator of the estate when I
558 married; there had been a good deal of fighting between him and Brown, as to who should be the administrator of de Haro. De Zaldo told me they were going to take a half league out of the external boundaries of the rancho. At that time I knew nothing about titles, or ranchos; I thought I would go and see it done. I was the only one of the heirs of the whole family that was on the ground at the time the survey was made; I merely went there as an observer, to see what they were going to do.

4. In answer to the 9th ques. of the same deposition, Mr. Ransom says he supposed that if the selection had not been satisfactory to the heirs, that Charles Brown and yourself would have made some objection. Did you at any time make any objection to the selection, as shown by Ransom's survey?

Ans. At the time the survey was made, I did not know anything about the external boundaries of the ranch. When I found out that they were going to sell, Argenti and de Zaldo locating school warrants on the ranch, Brown and myself, on the morning of the sale,
559 went and objected to it. I went that afternoon up to Col. Hays, at the surveyor general's office, and told Ransom that I thought he and de Zaldo were trying to swindle orphan children. He and I had some pretty rough talk. He told me, "go out of my

office." I told him that I would go out of his office, but that he would not follow me down stairs. I then went to Argenti's. Mr. Argenti told me that he was a banker and dealt in school warrants, and that Mr. Ransom was one of the government surveyors, and that Ramon de Zaldo was administrator of the estate of de Haro, and that de Zaldo told him that he was administrator of the estate, and could locate the half league anywhere within the external boundaries, and that the rest could be covered with school warrants for their joint benefit. About the same time, a few days afterwards, I met de Zaldo in his own house at the Mission, and told him that if I caught him robbing my wife of one dollar of her property, I would make it a personal matter between him and me.

5. In your last answer, do you mean the sale advertised by Wainwright, Randall & Co. in 1853?

560 Ans. I do.

(The answer to ques. 4 is objected to by counsel for the U. S. as incompetent, irrelevant, and not responsive to the question.)

6. Did the circumstances you have mentioned in your answer to ques. 4, all occur about the time advertised for the sale by Wainwright, Randall & Co. in 1853?

Ans. I think the conversation between Ransom and me and Argenti was on the same day; I am not positive, though. I think now it was the day before the sale. With de Zaldo, it was the first time I saw him; I went to see him several times before I did see him. It was certainly within the year 1853, and before the circular was published.

7. Mr. de Zaldo, in answer to ques. 18 of his deposition taken Sept. 6th, 1862—which question was, whether Brown and Denniston, or either one of them, did not state to him that they had designated the particular half league located by Ransom—states that he had it from their own mouths that they had been carrying the chain,

561 etc. Have you anything further to add to your former answers on this point?

Ans. Brown was not there. I am speaking of the survey of the half league.

8. In the answer to ques. 20, de Zaldo says that both Brown and Denniston saw the plat of the Ransom survey after it was completed, and talked about it at his house, and that even the women were anxious to get a look at it. State what you know on that point.

Ans. I know that it is not so. I never saw the plat of it to this day. No map was ever shown to me, as a map of the half league that had been surveyed. I saw a map here the other day, which may be the map he means, but a map of the kind was never shown to me.

9. Mr. de Zaldo was asked, ques. 23, as follows: "When you showed the plat of the survey to Brown and Denniston, did they make any objection to it?" To which he answered, "Not any that I know of; they explained the map to me, not I to them." * * *

562 Is this answer true, so far as you are concerned?

Ans. I could not make any objection, as I never saw the plat.

10. What interest, if any, have you in the estate of Francisco de Haro, or in this rancho, under the grant?

Ans. Not one cent.

Cross-examination.—Questions by counsel for the U. S.

Ques. 11. Were you present during the whole time Ransom was running the lines of the half league?

Ans. I was.

12. What did you then understand to be the object of that survey?

Ans. Mr. de Zaldo told me they were going to locate a half league inside of the external boundaries, and I went there to see where it would be located.

13. Did you then indicate to Ransom any wish on your part
563 that it should be located further to the south?

Ans. No, sir, I did not, because I did not know where the southern boundary of the ranch was.

14. How soon afterwards did you ascertain where the southern line was?

Ans. That I cannot tell. I never knew it until Matthewson run the northern line of the Buriburi rancho, which makes the southern boundary of this rancho.

15. At the date of Ransom's survey, did you not know that the de Haro ranch was bounded on the south by the rancho of Burriburri?

Ans. I had heard that it did, but I did not know where the line run, for the Buriburi rancho had not been surveyed.

16. Did you not then know that there was a considerable strip of land between what was then reputed to be the north line of the Burriburri ranch, and the south line of the half league as surveyed by Ransom?

564 Ans. I did. I know that they left out the house of Galindo, and the best part of the pasture land of what was known as the de Haro ranch.

17. You knew at that time where the house of Galindo was?

Ans. No. I had seen the place pointed out where the house of Galindo stood, but I never was on the ruins until Matthewson run the north line of the Buriburi, and then they had to send for Francisco Sanchez to point it out. Sanchez came and pointed out the line of the Buriburi ranch, and the place where the house of Galindo stood That was the first time I was ever on the spot.

18. Do you mean to say that at the date of the Ransom survey, no one had pointed out to you, and you had no knowledge or information as to the spot about which Galindo house stood, nor about where the north line of the Buriburi was?

Ans. The only information that I ever had I got from my wife, riding along the road, telling me where she used to live when she

565 was a girl, and she did not know exactly, nor anybody knew where the Buriburi line was until they run it.

19. Was the place that she pointed out near the Laguna San Bruno?

Ans. It was about three or four hundred yards from it, and she told me that she used to come down and wash in the lake.

20. Yow knew, then, at the date of Ransom's survey, that all the land lying south of the survey of the half league, and a point somewhere in the neighborhood of the Lake San Bruno, was within the exterior limits of the de Haro ranch?

Ans. I did, because I had gone and taken some of her father's stock off of the ground.

21. Did you not know at the date of Ransom's survey that the de Haro rancho was bounded on the east by the San Miguel ranch, on the south by the Buriburi ranch, on the north by Lake Puerca, and on the west by the ocean?

566 Ans. I know that the de Haro ranch, or Galindo grant, as they called it, was bounded by the Buriburi, and that it being an older ranch than the San Miguel grant, it must be bounded by it and the Pacific ocean, and the northern line I don't know to this day. I believe it is bounded by a grant to Fitch and Guerrero. The northern line has never been run, to my knowledge.

22. You knew at the date of Ransom's survey, did you not, that the boundaries which you have described were the boundaries of the de Haro ranch?

Ans. Only from hearsay: I never saw the line run.

23. How soon was it after the survey of the half league by Ransom that you became dissatisfied with it?

Ans. As soon as the family knew the location of it, they said they had been robbed of their property; then I objected.

(The answer is objected to by counsel for the U. S. as irrelevant, evasive, and not responsive to the question.)

24. I again ask you to specify as near as you can by days,

567 weeks, or months, how long it was after Ransom's survey that you became dissatisfied with it.

(Objected to, because the witness has already answered in his direct examination to ques. 4th, 5th, and 6th, that he made objections to the survey about the time of the sale, in 1853, advertised by Wainwright, Randall & Co.)

Ans. It was just before the sale that was to be, by Wainwright & Randall.

25. Up to that time, as I understand your answer, you were satisfied with the location of the half league?

Ans. De Zaldo told me that he was going to locate it, he being the administrator, and that we couldn't help ourselves. I personally had nothing to do with it. I knew nothing about land affairs.

26. At the time of Ransom's survey, what was your impression, from all that you had heard at that time, as to the quantity of land to which the heirs of de Haro were entitled under the grant?

Ans. I had always heard them say that they were entitled

568 to the whole of it. My individual impression was that I did not know much about it.

27. Had you at that time any opinion whatever, from what the family had said to you, or otherwise, upon the question whether or not the heirs were entitled to all the land within the exterior limits, or only to a half league?

Ans. I knew very little about it at that time; I thought they were very lucky to get it out the hands of de Zaldo any way.

28. The last question is repeated.

Ans. My impression was that they were entitled to the whole of it; if not, that they were entitled to the location.

Examination adjourned until 1 o'clock p. m., to-morrow.

SAN FRANCISCO, *Sept. 18th*, 1862.

Examination of Jas. G. Denniston resumed from yesterday.

Present: All the parties.

569 Ques. 29. Had you any cause prior to the time that the said lands were advertised to be sold by Wainwright & Randall, to be dissatisfied with Ransom's survey?

Ans. I did not know anything about the ranch, of any account; I had been over it once or twice, but I did not know anything about it, because I had never seen the external boundaries of the ranch.

30. Did you not, in August, 1853, take up a claim for 160 acres of land on the de Haro ranch, south of the lake house and outside of the survey of the half league?

Ans. I did. It was between the western line of the half league and the ocean.

31. How long was it after this before you became dissatisfied with Ransom's survey of the half league?

Ans. I located there and built a house. I told one of the heirs that he could take some cows and keep a dairy there. It was the same ground that the heirs had before leased to Frenchmen for a dairy.

570 32. Which of the heirs was it that you offered the place?

Ans. It was a general offer to the whole of them. Prudencio, who was living with me, I wanted to take it, but none of them did take it. Some one tore the shanty down, and that was the last of it.

33. When you heard that Argenti had located school warrants on the ground, and ascertained that de Zaldo and Ransom had something to do with it, what steps, if any, did you take towards having de Zaldo removed as administrator of the estate?

Ans. I did not take any; other of the heirs did, though; I think it was Brown, his wife, Alonzo de Haro, a ward of Brown, and Prudencio de Haro. I think they filed a petition for his removal in the probate court. I think it was about the time of the advertised sale by Wainwright & Randall; it might have been at the time of the Potrero difficulty, because they were at loggerheads all the time.

34. After Ransom's survey of the half league was made were not the corners and lines designated by stakes?

571 Ans. I never saw any stakes there at all.

35. Are you quite sure of this?

Ans. Yes.

36. Did you at any time, after the half league was surveyed, point it out to any one, or state to any one that that was the land that the heirs claimed, and that all of the land outside of the half league was public land, or any words to that effect?

Ans. I showed it to most everybody that came in that part of country. If anybody asked, I showed them where the half league had been run. The only thing that I recollect about telling anybody it was public land was a conversation I had with Mr. Colgrove, in which I told him that if it was public land I should like to see him have a farm there as soon as anybody. I might have told others to the same effect, but I don't remember it. I told several that the heirs were going to law to try and get the whole ranch.

37. Did you not state to Colgrove, in substance, that all the
572 land outside of the half league was public land, and advise him to take up a claim on it, and did you not state the same thing to R. S. Thornton?

Ans. As far as Mr. Colgrove is concerned I don't exactly remember, but I know I told him that if it was public land I would sooner see him have a claim than most anybody else. This was about the time the survey was made; Mr. Thornton might have been there about that time, but I don't recollect it; I did not know him then.

38. Did you at any time point out the lines of the half league, or point towards the half league and state to B. S. Hollingsworth "that is our land, and the land outside of it is government land," or words to that effect?

Ans. I have no recollection of knowing a man by that name, but I pointed out to over a hundred men where the survey had been run.

39. How did you come to point out the lines of the half league to so many persons?

573 Ans. Because they asked me where the line had been run.

40. What did they say was their object in wanting to know where the lines run?

Ans. They did not tell me what their object was.

41. Did they make no statement to you whatever?

Ans. Colgrove and one or two others might have done so, but the most of them I used to see prowling through the fog there as though the were looking for something.

42. Had you then any idea what they were looking for? If so, state it.

Ans. I supposed some of them were there to steal horses, and some of them to jump other people's land.

43. Did you state to such of them as you suspected were there to jump other people's land that they must not settle anywhere within the exterior limits of the de Haro ranch; that the heirs
574 claimed the whole of the land within the limits?

Ans. Yes; any quantity of them. I used to tell them most all that.

44. Specify the names of those to whom you made that statement as far as you can.

Ans. I cannot state their names. I did not know any of them but Colgrove.

45. Did you not know, and can you not specify, the name of even one besides Colgrove?

Ans. No; I don't think I can. I don't even now know a dozen men on the place by name. Within the last four or five years there have been, I suppose, over two hundred men to ask me about the title, and I don't know any of their names. They wanted to buy. I advised them not to buy; that if they did buy, they would buy a lawsuit.

46. Did not you and your wife convey to Andrews about 640 acres of the land near the lake house, lying between the two branches of the Laguna de la Merced?

575 Ans. We did make a transfer of our right, title, and interest to Wm. O. Andrew, of certain metes and bounds; I don't know what the quantity was. It was only an accommodation arrangement.

47. What right or title did you or your wife claim to that land, except as heirs of Francisco de Haro?

Ans. None. We claimed the whole external boundaries.

48. Has that land been re-conveyed by Andrews to you or your wife?

Ans. It has. The deed, I think, is made to us both.

49. Have you ever stated to Israel G. Knowles that the de Haro heirs did not claim the place where he resides, and that his title was all right, or words to that effect?

Ans. I have told Mr. Knowes that if the heirs had the locating of the half league, that they would locate it so that it would not touch him; that they would locate it over where Thornton and those other parties were.

576 50. Is this all that you stated to Knowles on that subject?

Ans. Knowles and I have talked on the subject over, I suppose, a hundred times. I cannot remember the conversations. I told him that if I had the selection we would leave him out.

51. Did you not tell Thornton, when the last official survey was being made in this case, that you would not run the lines so as to include his land?

Ans. No, sir. I was not on the ground; did not see the survey; and don't know where the stakes are to-day.

52. Did you not so state to him at any time when Matthewson was making a survey of this land?

Ans. That I cannot recollect; but when I was making the official survey I did not. Matthewson made two surveys, but I don't recollect saying anything of the kind to Thornton; I don't think I did.

577 53. Did you not state, in 1859, or about that time, to the board of supervisors of San Mateo county, that the heirs of

de Haro did not claim any land in San Mateo county; and did you not on that ground apply to the said board, sitting as a board of equalization, to correct the tax list so as to exempt the said heirs from taxation for all lands lying south of the north line of San Mateo county?

Ans. Mr. Thornton was a squatter on the ranch and a member of the board of equalization of San Mateo county; there had been about three years' taxes running on the ranch; they had tried to sell it the year before for taxes; no one would buy it. I offered a compromise to the board, that if they would throw off two years' taxes the family would pay the taxes then due. The board accepted the proposition. I don't remember whether we paid them that year, but they have been paid since. I don't think I ever made the statement mentioned in the question.

54. Have you not stated, within the last two months, to Wm. B. Maxson, that Mr. Mahoney, Mr. S. A. Sharp, and yourself, were jointly interested in the de Haro ranch, or words to that effect?

578 Ans. I might possibly have said so, but I don't recollect any such conversation.

55. Have you not stated, within the last few months, to Mr. Tully R. Wise, that you have an interest in the de Haro ranch?

Ans. I might have said so, but I don't recollect it. I now recollect the conversation I had with Mr. Wise; it was about this matter. I told him that the ranch had been sold in Redwood city, at an administrator's sale, and that the heirs would not come up with the money, and it was resold, and Mahoney bought it, and I did not have any interest in it afterwards.

56. Do you now state that you have no interest in the ranch, directly or indirectly, express or implied, contingently or otherwise?

Ans. I have not.

57. Has your wife any interest in the ranch?

Ans. She may have. I don't know anything about it.

579 58. Do you intend to say that if your wife has an interest, you don't know it?

Ans. I do.

59. What is your opinion about it?

(Objected to as irrelevant and because the witness has already fully answered on the subject.)

Ans. I suppose if she should litigate she would get some of it, but that is a question for lawyers, not me.

60. Does your wife, or do you on her behalf, claim to have any interest in the ranch at all?

Ans. She does; but I do not, because I have litigated so much that I am tired of it.

61. How, and in what manner, and for what reasons, does she claim to be interested in it?

Ans. She thinks the administrator's sale don't amount to anything.

580 62. She therefore claims, does she not, to be the owner of one-seventh of the ranch?

Ans. I suppose she thinks she is, but it is not my intention to litigate it for her.

63. Did you not state to Israel G. Knowles, after this cause was submitted to Judge Hoffman upon the question of survey, and before his late decision upon the survey, that yourself, Mr. Sharp, Mr. Tompkins, and Mr. Mahoney, were all jointly interested in the ranch, and that you had been offered $13,000 for your interest in it, and had declined to sell it, because two lawyers being interested in the case, it would cost you nothing for lawyers' fee to prosecute it, or words to that effect?

Ans. I don't recollect of any conversation of that effect. I recollect meeting Mr. Knowles on the road one day. We had a conversation, but I forget what it was; but my impression is, I told him I had nothing to do with it, and that if Mahoney had the locating of the place he would not touch him at all.

581 65. Did you ever, at any time, complain to Col. Hays, the surveyor general, or to Clarke, Taylor & Beckh, counsel for the heirs in prosecuting the said claim before the land commission, with respect to Ransom's survey, and the location of the half league?

Ans. No, I never said a word to Col. Hays, and I was not acquainted with Clarke, Taylor & Beckh at that time, but the family employed Mr. Hawes to take the case any go for the whole boundaries.

(Counsel for the U. S. objects to this whole deposition, on the ground that the witness is incompetent to testify in the cause, because of his own interest and that of his wife in the result.)

Direct examination resumed.—Questions by counsel for int. Mahoney and cl'm't.

Ques. 66. In answer to ques. 55, you state some conversation you had with Mr. Wise. State who the administrator was, under whom the sale referred to was made.

Ans. Ramon de Zaldo. I think the auctioneer was H. A.

582 Cobb. I was not there at the time.

67. State the sex, age, and condition of the heirs in March, 1852.

Ans. Josefa at that time was the widow of Guerrero, now my wife. Natividad was the widow of Castro, was about 22 or 23 years of age. Prudencio, a boy, was of age about that time; I think he became of age in July, 1852. Candelaria, a girl, was a minor, and de Zaldo was her guardian; she was then about 16 or 17 years old. I think she got married, 4 or 5 years ago, to John Pruzo. Alonzo was about 11 years of age; Chas. Brown is his guardian. Carlota is a twin sister of Candelaria; she married Isaac V. Denniston since. Rosalia was married at that time to Chas. Brown.

Deposition closed.

JAMES G. DENNISTON.

Subscribed and sworn to this 18th day of September, A. D. 1862, before me.

W. H. CHEVERS,
U. S. Com.

Endorsed: Filed January 31st, 1863.

583 W. H. CHEVERS, *Clerk.*

Deposition of Wash. Bartlett, on part of int. Mahoney and claimant.

In the district court of the United States for the northern district of California.

THE UNITED STATES *vs.* JOSEFA DE HARO. } In land cases, dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this 18th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California, to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared Washington Bartlett, a witness produced in behalf of the int. Mahoney and cl't in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims
584 in the State of California, who, being duly sworn, testified as follows:

Present: S. A. Sharp, esq., for int. Mahoney and claimant, and W. H. Sharp, U. S. att'y, for the U. S.

Questions in behalf of the int. Mahoney and cl't.

Question 1st. What is your name, age, place of residence, and occupation?

Ans. My name is Washington Bartlett; my age is 38 years; I reside in San Francisco; I am county clerk of the city and county of San Francisco.

2. State whether the book now produced by you, marked "School Land Warrants, San Francisco," is part of the records of this county, and in your custody as county clerk.

Ans. It is.

3. Will you furnish certified copies of pages 90 to 102, both inclusive, of said book, to be annexed to this deposition, to be marked Exhibit, Bartlett No. 1?

Ans. I will.

585 4. Please state whether the records contained in this book are copies from original papers.

Ans. I presume that they are, but I know nothing more than that they are in the book.

Counsel for the U. S. objects to the introduction of the said book,

or a copy of it, in evidence, as incompetent, irrelevant, and immaterial.

Cross-examination waived. Deposition closed.

WASHINGTON BARTLETT.

Subscribed and sworn to this 18th day of September, A. D. 1862, before me.

W. H. CHEVERS,
U. S. Com.

Endorsed : Filed January 31st, 1863.

W. H. CHEVERS, *Clerk.*

586 *Exhibit, Bartlett No.* 1, *to dep'n of Washington Bartlett.*

Claim of Felix Argenti.

Know all men by these presents, that I, Felix Argenti, of San Francisco, pursuant to an act of the legislature of the State of California, to provide for the disposal of the five hundred thousand acres of land granted to the State of California, and approved March 3d, 1852, do hereby locate the within mentioned and appended school land warrants, to wit :

Number six hundred and thirty-four (634) for hundred and sixty acres; number six hundred and thirty-five (635) for one hundred and sixty acres; number six hundred and thirty-eight (638) for one hundred and sixty acres; number six hundred and thirty-nine (639) for one hundred and sixty acres; number sixty hundred and forty (640) for one hundred and sixty acres; number six hundred and forty-one (641) for one hundred and sixty acres; number six hundred and forty-two (642) for one hundred and sixty acres; number six hundred and forty-three (643) for one hundred and sixty acres; number six hundred and forty-four (644) for one hundred and sixty acres; number six hundred and forty-five (645) for one hundred and sixty acres, and all dated the month of August, one thousand eight hundred and fifty-three, on the following described unappropriated lands belonging to the United States, within the State of California, subject to such entry and location; which lands so located are described as follows, to wit : commencing at a point in the east side of the
587 rancho Laguna Merced, where the line separating township two and three south crosses said rancho line, and forty chains west of the corner to township two and three south, and ranges five and six east, United States survey, and running along the east line of said rancho, as recently surveyed under restrictions from United States surveyor general, to a point in the west line of Noe's ranch north 38 chains; thence along the west side of Noe's ranch south thirty-eight degrees east, sixty-nine chains, to a rock on the north side of the San José and San Francisco road, said to be the southwest corner of said Noe's ranch; thence crossing said south sixty-eight and a half degrees east, one and three-fourth chains, to a telegraph post; thence passing up the point of ridge south fourteen and a half

degrees west, four and a half chains, to a pile of stones; thence twenty-four and three-fourth degrees east, five chains, to the top of the ridge; thence south forty-two and a quarter degrees east, twenty-two chains, along the ridge; thence south fifty-eight chains, desending the ridge; thence east twenty chains; thence south thirty-eight chains, to a point in the northwest line of the "Buriburi" rancho; thence along said line south one and a half degrees west, one hundred and twenty-eight chains; thence north thirty-eight chains; thence west twenty chains; thence north one hundred and twenty-eight chains and seventy-three links, to a point in the south line of said Laguna Merced ranch; thence along said south line east forty chains, to the south-
588 east corner of said rancho; thence along the east side of said ranch north seventy-one chains and twenty-seven links, to the point of commencing, containing sixteen hundred acres, as the same is delineated and set forth as the accompanying map of the survey, and made part and parcel of this my certificate of location of said land, and that it is my intention hereby to avail myself of all and singular the benefits and privileges of the said act of the legislature of the State of California, herein referred to.

In witness whereof, I have hereto set my hand and seal the 12th day of August, A. D. 1853.

F. ARGENTI. [SEAL.]

Sworn to before me this 12th day of August, 1853.

R. C. HOPKINS,
D. Cl'k Dist. Court.

(Here follows map, page 589.)

590 160 acres. No. 634.

School land warrant.

STATE OF CALIFORNIA,
Executive Department.

This is to certify that under the provisions of the act approved May 3d, 1852, providing for the disposal of the five hundred thousand acres of land donated to the State of California by the government of the United States, Thos. C. Banks having complied with the requirements of the act aforesaid, and paid into the State treasure the sum of three hundred and twenty dollars, the said Thos. C. Banks, or his assigns, are authorized in behalf of the State of California to locate the same upon one hundred and sixty acres of any vacant and unappropriated land within the State of California, belonging to the United States; said land to be located in conformity with the provisions of said law.

[L. S.] In testimony whereof, I have caused the great seal of the State to be affixed at the city of Benicia, this 9th day of August, in the year of our Lord eighteen hundred and fifty-three.

JOHN BIGLER, *Governor.*
W. S. PIERCE, *Comptroller.*

For value received, I hereby assign all my right, title, and interest to the within land warrants, No. 634, to Felix Argenti.

In witness whereof, I have hereunto set my hand and seal
591 this eleventh day of August, eighteen hundred and fifty-three.
THOS. C. BANKS.

STATE OF CALIFORNIA,
County of San Francisco.

On this eleventh day of August, A. D. 1853, before me, William A. Cornwall, a notary public in and for said county, personally appeared Thos. C. Banks, known to me to be the individual described in, and who executed the foregoing assignment, and acknowledged that he executed the same freely and voluntarily, for the uses and purposes therein mentioned.

[L. S.] In testimony whereof, I have hereunto set my hand and affixed my official seal on the day and year last mentioned.
WM. A. CORNWALL,
Notary Public.

160 acres. No. 635.

School land warrants.

STATE OF CALIFORNIA,
Executive Department.

It is hereby certified that, under the provisions of the act approved May 3d, 1852, providing for the disposal of the five hundred thousand acres of land donated to the State of California by the government of the United States, Thos. C. Banks having complied with re-
592 quirements of the act aforesaid, and paid into the State treasury the sum of three hundred and twenty dollars, the said Thos. C. Banks, or his assigns, are authorized in behalf of the State of California to locate the same upon one hundred and sixty acres of any vacant and unappropriated lands within the State of California, belonging to the United States; said land to be located in conformity with the provisions of the law.

In testimony whereof, I have caused the great seal of the State to be affixed at the city of Benicia, this 9th day of August, 1853.
JNO. BIGLER, *Governor.*
W. S. PIERCE, *Comptroller.*

(For record of float, see page 200.)

For value received, I hereby assign all my right, title, and interest in the within land warrant, No. 635, to Felix Argenti.

In witness whereof, I have hereunto set my hand and seal this eleventh day of August, 1853.
T. C. BANKS.

Witness: J. H. PHINEAS.

STATE OF CALIFORNIA,
County of San Francisco, ss:

On this 11th day of August, 1853, before me, Wm. A. Cornwall, a notary public in and for said county, personally appeared Thos. C. Banks, known to me to be the individual described in, and who executed the foregoing assignment, and acknowledged that he executed the same freely and voluntarily, for the uses and purposes therein mentioned.

593

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year last above written.

WM. A. CORNWALL,
Notary Public.

160 acres. No. 645.

School land warrants.

STATE OF CALIFORNIA.
Excutive Department.

It is hereby certified that under the provisions of the act approved May 3d, 1852, providing for the disposal of the five hundred thousand acres of land donated to the State of California by the government of the United States, Leander Ransom having complied with the requirements of the act aforesaid, and paid into the State treasury the sum of three hundred and twenty dollars, the said Leander Ransom, or his assigns, are authorized in behalf of the State of California to locate the same upon one hundred and sixty acres of any vacant and unappropiated land within the State of California, belonging to the United States; said land to be located in conformity with the provisions of said law.

594

[L. S.] In witness whereof, I have caused the great seal of the State to be affixed at the city of Benicia, this 9th day of August, 1853.

JNO. BIGLER, *Governor.*
W. S. PIERCE, *Comptroller.*

(For float, see page 197.)

For value received, I hereby assign my right, title, and interest in the within land warrants to Felix Argenti.

Witness my hand and seal this 12th day of August, 1853.

LEANDER RANSOM.

Witness: W. A. CORNWALL.

STATE OF CALIFORNIA,
County of San Francisco, ss:

On this 12th day of August, 1853, before me, Wm. A. Cornwall, a notary public in and for said county, personally appeared Leander Ransom, known to me to be the individual described in, and who executed the foregoing instrument and assignment, and acknowledge

that he executed the same freely and voluntarily for the uses and purposes therein mentioned.

595 [L. S.] In testimony whereof, I have hereunto set my hand and affixed my official seal the day and year last above written.

WM. A. CORNWALL,
Notary Public.

160 acres. No. 638.

School land warrant.

STATE OF CALIFORNIA,
Executive Department.

It is hereby certified that under the provisions of the act approved May 3d, 1852, providing for the disposal of the five hundred thousand acres of land donated to the State of California by the government of the United States, Ramon de Zaldo having complied with the requirements of the act aforesaid, and paid into the State treasury the sum of three hundred and twenty dollars, the said Ramon de Zaldo, or his assigns, authorized in behalf of the State of California to locate same upon one hundred and sixty acres of any vacant and unappropriated land within the State of California belonging to the United States; said land to be located in conformity with the provisions of said law.

In testimony whereof, I have caused the great seal of the State to [L. S.] be affixed, at the city of Benicia, this 9th day of August, 1853.

JNO. BIGLER, *Governor.*
W. S. PIERCE, *Comptroller.*

596 For value received, I hereby assign the within land warrant, No. 638, to Felix Argenti.

Witness my hand and seal this 11th day of August, 1853.

Witness: RAMON DE ZALDO.

STATE OF CALIFORNIA,
County of San Francisco, ss:

On the 12th day of August, A. D. 1853, before me, Joseph Grant, a notary public in and for the said county, duly commissioned and sworn, dwelling in the city of San Francisco, personally appeared Ramon de Zaldo, known to me to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same freely and voluntarily, and for the purposes therein mentioned.

In witness whereof, I have hereunto set my hand and affixed [L. S.] my notarial seal the day and year above written.

JOSEPH GRANT,
Notary Public.

160 acres. No. 644.

School land warrant.

STATE OF CALIFORNIA,
Executive Department.

It is hereby certified that under the provisions of the act ap-
597 proved May 3d, 1852, providing for the disposal of the five hundred thousand acres of land donated to the State of California by the government of the United States, Leander Ransom having complied with the requirements of the act aforesaid, and paid into the State treasury the sum of three hundred and twenty dollars, the said Leander Ransom, or his assigns, are authorized in behalf of the State of California to locate the same upon one hundred sixty acres of any unappropriated land within the State of California belonging to the United States; said land to be located in conformity with the provisions of said law.

In testimony whereof, I have caused the great seal of the State to
[L. S.] be affixed, at the city of Benicia, this 9th day of August, 1853.

JNO. BIGLER, *Governor.*
W. S. PIERCE, *Comptroller.*

For value received, I hereby assign my right, title, and interest in the within land warrant, to Felix Argenti.

LEANDER RANSOM.

Witness: W. A. CORNWALL.

STATE OF CALIFORNIA,
County of San Francisco, ss:

On this 12th day of August, 1853, before me, Wm. A. Cornwall, a notary public in and for said county, personally appeared
598 Leander Ransom, known to me to be the individual described in and who executed the foregoing instrument and assignment, and acknowledged that he executed the same freely and voluntarily for the uses and purposes therein mentioned.

In testimony whereof, I have hereunto set my hand and
[L. S.] affixed my seal of office the day and year last above written.

WM. A. CORNWALL,
Notary Public.

160 acres. No. 643.

School land warrant.

STATE OF CALIFORNIA,
Executive Department.

It is hereby certified that under the provisions of the act approved May 3d, 1852, providing for the disposal of the five hundred thousand acres of land donated to the State of California by the government of the United States, Leander Ransom having complied with the require-

ments of the act aforesaid, and paid into the State treasury the sum of three hundred and twenty dollars, the said Leander Ransom, or his assigns, are authorized in behalf of the State of California
599 to locate the same upon one hundred and sixty acres of any unappropriated land within the State of California belonging to the United States; said land to be located in conformity with the provisions of said law.

In testimony whereof I have caused the great seal of the State
[L. S.] to be affixed, at the city of Benicia, this 9th day of August, 1853.

JOHN BIGLER, *Governor.*
W. S. PIERCE, *Comptroller.*

For value received, I hereby assign my right, title, and interest in the within land warrant to Felix Argenti.

Witness my hand and seal this 12th day of August, 1853.

LEANDER RANSOM.

Witness: WM. A. CORNWALL.

STATE OF CALIFORNIA,
County of San Francisco, ss.

On this 12th day of August, A. D. 1853, before me, William A. Cornwall, a notary public in and for said county, personally appeared Leander Ransom, known to me to be the individual described in and who executed the foregoing instrument and assignment, and acknowledged that he executed the same freely and voluntarily for the uses and purposes therein mentioned.

600 In testimony whereof I have hereunto set my hand and af-
[L. S.] fixed my official seal the day and year above written.

WM. A. CORNWALL,
Notary Public.

160 acres. *School land warrant.* No. 642.

STATE OF CALIFORNIA,
Executive Department.

It is hereby certified tha, tunder the provisions of the act approved May 3d, 1852, providing for the disposal of the five hundred thousand acres of land donated to the State of California by the government of the United States, Leander Ransom, having complied with the requirements of the act aforesaid, and paid into the State treasury the sum of three hundred and twenty dollars, the said Leander Ransom or his assigns are authorized, in behalf of the State of California, to locate the same upon any vacant and unappropriated land, within the State of California, belonging to the United States, said land to be located in conformity with the provisions of said law.

In testimony whereof I have caused the great seal of the
601 State to be affixed, at the city of Benicia, this 9th day of
[L. S.] August, 1853.

JNO. BIGLER, *Governor.*
W. S. PIERCE, *Comptroller.*

For value received, I hereby assign my right, title, and interest in the within land warrant to Felix Argenti.

LEANDER RANSOM.

STATE OF CALIFORNIA,
County of San Francisco.

On this 12th day of August, 1853, before me, Wm. A. Cornwall, a notary public in and for said county, personally appeared Leander Ransom, known to me to be the individual described in and who also executed the foregoing instrument and assignment, and acknowledged that he executed the same freely and voluntarily, for the uses and purposes therein mentioned.

In testimony whereof, I have hereunto set my hand and affixed my official seal, the day and year above written.

[L. S.]

WM. A. CORNWALL,
Notary Public.

160 acres. *School land warrant.* No. 641.

602

STATE OF CALIFORNIA,
Executive Department.

It is hereby certified, the provisions of the act approved May 3d, 1852, providing for the disposal of the five hundred thousand acres of land donated to the State of California by the government of the United States, Ramon de Zaldo having complied with the requirements of said act and paid into the State treasury the sum of three hundred and twenty dollars, the said Ramon de Zaldo or his assigns are authorized, in behalf of the State of California, to locate the same upon one hundred and sixty acres of any vacant and unappropriated land belonging to the United States, said land to be located in conformity with the provisions of said law.

In testimony whereof, I have caused the great seal of the State to be affixed at Benicia, this 9th day of August, 1853.

[L. S.]

JNO. BIGLER.
W. S. PIERCE, *Comptroller.*

For value received, I hereby assign the within land warrant, No. 641, to Felix Argenti.

RAMON DE ZALDO.

603

STATE OF CALIFORNIA,
Executive Department.

On the 12th day of August, A. D. 1853, before me, Joseph Grant, a notary public in and for said county, duly commissioned and sworn, dwelling in the city of San Francisco, personally appeared Ramon de Zaldo, who is known to me to be the individual described in, and who executed the foregoing instrument, and acknowledged that he executed the same freely and voluntarily, and for the purposes therein mentioned.

[L. S.] In witness whereof, I have hereunto set my hand and affixed my seal of office the day and year above written.

JOSEPH GRANT, *Notary Public.*

160 acres. *School land warrant.* No. 640.

STATE OF CALIFORNIA,
County of San Francisco.

It is hereby certified that, under the provisions of the act approved May 3d, 1852, providing for the disposal of the five hundred thousand acres of land donated to the State of California by the government of the United States, Ramon de Zaldo, having complied with the requirements of the act aforesaid, and paid into the State treasury the sum of three hundred and twenty dollars, the said Ramon de Zaldo or his assigns are authorized, in behalf of the State of California, to locate the same upon one hundred and sixty acres of any vacant and unappropriated land within the State of conformity belonging to the United States, said land to be located in conformity with the provisions of said law.

604

In testimony whereof, I have caused the great seal of the State to be affixed at the city of Benicia this 9th day of August, 1853.

[L. S.]

JNO. BIGLER, *Governor.*
W. S. PIERCE *Comptroller.*

For value received, I hereby assign the within land warant, No. warrant to Felix Argentine.

Witness my hand and seal this 11th day of August, 1853.

RAMON DE ZALDO.

THE STATE OF CALIFORNIA,
County of San Francisco.

On this 12th day of August, 1853, before me, Joseph Grant, a notary public in and for the said county, duly commissioned and sworn, dwelling in the city of San Francisco, personally appeared Ramon de Zaldo, known to me to be the individual described in, and who executed the foregoing instrument, and acknowledged that he executed the same freely and voluntarily, and for the purposes therein mentioned.

605

[L. S.] In witness whereof, I have hereunto set my hand and affixed my official seal the day and year written.

JOSEPH GRANT, *Notary Public.*

160 acres. *School land warrant.* No. 639.

STATE OF CALIFORNIA,
Executive Department.

It is hereby certified that, under the provisions of the act approved May 3d, 1852, providing for the disposal of the five hundred thou-

sand acres of land donated to the State of California by the government of the United States, Ramon de Zaldo, having complied with the requirements of the act aforesaid, and paid into the State treasury the sum of three hundred and twenty dollars, the said Ramon
606 de Zaldo, or his assigns, are authorized, in behalf of the State of California, to locate the same upon one hundred and sixty acres of any vacant and unappropriated land within the State of California, belonging to the United States, said land to be located in conformity with the provisions of said law.

In testimony whereof, I have caused the great seal of the State
[L. S.] to be affixed at the city of Benicia, this 9th day of August, 1853.

J. BIGLER, *Governor.*

For value received, I hereby assign the within land warrant, No. 639, to Felix Argenti.

RAMON DE ZALDO.

STATE OF CALIFORNIA,
County of San Francisco.

On this 12th day of August, 1853, before me, Joseph Grant, a notary public, in and for the said county, duly commissioned and sworn, dwelling in the city of San Francisco, personally appeared Ramon de Zaldo, known to me to be the individual described in, and who executed the foregoing instrument, and acknowledged that
607 he executed the same freely and voluntarily, and for purposes therein mentioned.

In witness whereof, I have hereunto set my hand and affixed
[L. S.] my seal the day and year above written.

JOSEPH GRANT, *Notary Public.*

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, Washington Bartlett, county clerk of the city and county of San Francisco, and clerk of the county court of said county, do hereby certify that the foregoing is a full, true, and correct copy of pages 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, and 102, of a book now in my office, entitled "School Land Warrants, San Francisco."

Attest my hand and the seal of said county court, at my office in the said city and county of San Francisco, this twenty-sec-
[SEAL.] ond day of September, A. D. 1862.

WASHINGTON BARTLETT,
County Clerk.

SAN FRANCISCO, *Sept.* 22, 1862.

I hereby certify that the records of which the foregoing is a certified copy were made by me in the book of school land war-
608 rants, S. Francisco, from the original papers.

R. C. HOPKINS.

Admitted without further proof, but subject to all other legal objections.

WM. H. SHARP, *Dist. Att'y.*
By CROCKETT.

Endorsed: Filed Jan'y 31, 1863.

W. H. CHEVERS, *Clerk.*

Deposition of Carlota Denniston on part of int. Mahoney and claimant.

In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* JOSEFA DE HARO. } In land cases, dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this 19th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California, to take acknowledgments of bail and affidavits, and also to take depositions of wit-
609 nesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared Carlota Denniston, a witness produced in behalf of int. Mahoney and claimant in the above-entitled cause, now pending in said court under the acts of Congress to ascertain and settle the private land claims in the State of California, who being duly sworn, testified as follows: his evidence being interpreted by A. D. Splivalo, a sworn interpreter.

Present: S. A. Sharp, esq., for int. Mahoney and claimant, and W. H. Sharp, U. S. att'y for the U. S.

Questions in behalf of the int. Mahoney and cl't.

Question 1st. What is your name, age, and place of residence?

Ans. My name Carlotta Denniston; I am 28 years of age; I reside at the mission Dolores.

2. Are you a daughter of the late Francisco de Haro?

Ans. I am.

3. Do you recollect having, in 1853, authorized Ramon de Zaldo, or any other person, to make a selection in your behalf as one
610 of the heirs of Francisco de Haro, of any particular half league of land, as the half league claimed by your family as the rancho Laguna de la Merced?

(Objected to as leading.)

Ans. Ramon de Zaldo may have done what is stated in the question, with what power he had as our guardian, but not by my consent in particular, for he never asked it nor obtained it.

4. Did Ramon de Zaldo, or any other person, in 1853, show you a plat of a survey made by Leander Ransom of the rancho Laguna de

la Merced, and explain to you the location of the half league to be selected as the land claimed by the heirs of Francisco de Haro?

Ans. De Zaldo showed us a map, but he never pointed out to us the half league selected to be claimed by us, neither did he ask us whether we consented to it or not. I cannot exactly state whether this happened in 1853 or not.

5. Can you recollect whether or not this happened in the same year that James G. Denniston was married to your sister Jo-
611 sefa de Haro?

Ans. I cannot remember.

6. Where did Mr. de Zaldo reside at the time he showed you this map?

Ans. He was at that time in the mission; I do not remember whether he resided there or on the ranch.

7. How many years since de Zaldo showed you the map? State as near as you can.

Ans. I am not certain, but I think it must be between seven and eight years.

8. As one of the heirs of Francisco de Haro, do you know whether you now have any interest in the rancho Laguna de la Merced?

Ans. To the best of my knowledge I have sold my interest, and if I have any other interest in it besides what I sold I am not aware of it.

Cross-examination.—Questions by counsel for the U. S.

612 Ques. 9. To whom did you sell your interest in the ranch, and when?

Ans. I sold it to Mr. David Mahoney I think about a year ago; I do not know whether it was longer ago than that.

10. Did you make him a deed for it?

Ans. I did.

11. How much did he pay you for your interest in the ranch?

Ans. I received four hundred dollars, but I believe the consideration was five hundred dollars.

12. Was four hundred dollars all he agreed to pay you?

Ans. I received four hundred dollars.

13. Was that the price which he agreed to pay you before you signed the deed, and was that all he agreed to pay you?

Ans. That was what he gave me—four hundred dollars.

14. Did you have any bargain or agreement with him, be-
613 fore you signed the deed, as to how much he should pay you?

Ans. No, nothing more than that I sold it to him, and he gave me the money.

15. Do you consider yourself as having no interest of any kind in the ranch?

Ans. I think not; as I have said, I sold my interest.

16. Who beside yourself was present when de Zaldo exhibited the map to you?

Ans. There were some other persons present, but I do not remember them.

17. Which of your brothers and sisters were present?

Ans. I don't remember whether they were any of them present.

18. At what house was it that he exhibited the map to you?

Ans. I think in de Zaldo's house.

19. Did de Zaldo then reside at the mission with his family?

614 Ans. His family were there at the time; I don't know whether they lived there or not. I don't know whether he lived there, or on the ranch.

20. Do you not know that he and his family were keeping house at the mission at that time?

Ans. I have stated that I do not know. They were living both at the ranch and the mission, but where they were fixed I do not know. I think that he and his family kept the house, although I cannot positively state it.

21. How did you happen to be at de Zaldo's house when he showed you the map?

Ans. I know that I went to his house, but for what purpose I cannot say, as I do not remember.

22. Where did you reside at that time?

Ans. At the house of my sister Josefa or Natividad, I am not certain which, at the mission.

615 23. Which of your brothers and sisters then resided at the mission.

Ans. They all resided there, although, perhaps, Mrs. Brown may not have resided there.

24. Did you ever see the said map except on the one occasion, that de Zaldo exhibited it to you at his house?

Ans. I never did.

25. What did de Zaldo say to you when he showed you the map?

Ans. I cannot now remember what he then told me.

26. What did he say to you the map was?

Ans. He told me that it was a map of the ranch of the De Haro.

27. Did he state to you for what purpose the map was made?

Ans. I don't remember.

28. Do you think you would know the map if you were to see it again?

Ans. I cannot say whether I could or not.

616 29. Examine the map now shown to you on file in this cause, and marked "filed in office July 12th, 1854, Geo. Fisher, Sec'y;" and state whether it is the same map that de Zaldo showed you?

(Objected to, because the map now produced from the record is a copy of the plat of the survey made by Ransom, as prepared for filing before the board of U. S. land commissioners, and it is not shown by the evidence of Ransom or de Zaldo that the map submitted by Ransom to de Zaldo, and by him to the heirs, as they state, was anything more than the rough draft from the field-notes, and not a map as finished and colored as now shown.)

Ans. I do not in the least remember whether this is the one or not.

30. Did you examine the said map when de Zaldo showed it to you?

Ans. I did not.

31. Can you not remember anything at all that he said to you when he showed you the map?

617 Ans. I cannot remember anything more than that he stated to me that it was a map of the de Haro's ranch.

32. Can you not remember any person that was present except de Zaldo and yourself?

Ans. I think there were other persons present, but who they were I cannot say, for I don't remember.

33. Did you tell your sisters, or either of them, that you had seen the map?

Ans. I do not remember.

34. Who was your guardian at the time de Zaldo showed you the map?

Ans. I think it was de Zaldo.

35. In what year were you born, and in what year were you married?

Ans. I was born in 1834; I was married in 1855.

36. Was your sister Candelaria a twin sister of yours?

Ans. It is said that we are twin sisters.

618 37. Which of your brothers and sisters are younger than yourself and Candelaria?

Ans. My brother Alonzo; he is the only one alive.

38. How much younger is Alonzo than yourself?

Ans. I think he is eight or nine years younger.

39. Did you examine the map which de Zaldo showed you sufficiently to know whether the Laguna de la Merced and the Lake House were represented upon it?

Ans. I did not.

40. Do you remember all that de Zaldo said to you on that occasion?

Ans. I have already stated that I do not.

Deposition closed.

CARLOTA DENNISTON.

Sworn to and subscribed before me this 19th Sept., 1862.

W. H. CHEVERS,
U. S. Com'r.

619 Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

Deposition of Natividad Tissot, on part of int. Mahoney and claimant.

In the district court of the United States for the northern district of California.

THE UNITED STATES *vs.* JOSEFA DE HARO. } In land cases, dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this 19th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared Natividad Tissot, a witness produced in behalf of the int. Mahoney and cl't, in the above-entitled cause, now pending in said court under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows, his
620 evidence being interpreted by A. D. Splivalo, a sworn interpreter.

Present: S. A. Sharp, esq., for int. Mahoney and claimant, and W. H. Sharp, U. S. att'y, for the U. S.

Questions in behalf of the int. Mahoney and cl't.

Question 1st. What is your name, age, and place of residence?

Ans. My name is Natividad Tissot; my age is, I think, 33 years; I reside at the Mission Dolores.

2. Are you a daughter of the late Francisco de Haro?

Ans. I am.

3. Do you recollect having, in 1853, authorized Ramon de Zaldo, or any other person, to make a selection in your behalf, as one of the heirs of Francisco de Haro, of any particular half league of land, as the half league claimed by your family as the rancho Laguna de la Merced?

(Objected to as leading.)

621 Ans. I think that about the year 1853 de Zaldo showed us a map purporting to represent the half league of land. The way it happened was this: My sisters and myself being of lawful age, we went to solicit de Zaldo, who at that time was our tutor, to let us have the management of our own affairs, and he brought out a map, saying that it represented the land we claimed, and that everything would be arranged very soon.

4. Did you at that time authorize de Zaldo to select any particular half league, and did he explain to you where the half league was located on the ground?

(Objected to as leading.)

Ans. He did not; nor did I authorize him to make any selection.

5. As one of the heirs of Francisco de Haro, do you know whether you now have any interest in the rancho Laguna de la Merced?

Ans. I think I have not.

Cross-examination.—Questions by counsel for the U. S.

Ques. 6. When and how did you part with your interest in the estate?

622 Ans. I mortgaged the place about five or six years ago to Ramon Briones.

7. Has your interest in the estate been sold under the said mortgage; if so, to whom?

Ans. I think it was sold to Mr. Mahoney.

8. If Mr. Mahoney recovers the ranch, what interest would you be entitled to in it?

Ans. I do not know.

9. Which of your sisters was present when de Zaldo showed you the map?

Ans. My sister Josefa. My brother Prudencio was not present.

10. At what place was it that he showed you the map?

Ans. At his house in the mission.

11. Were you at that time married or single?

Ans. I was married to my present husband.

12. For what purpose did de Zaldo say the map was made?

623 Ans. To divide our shares in the ranch. When we went to him he brought out the map, told us a long tale about how things were to be arranged, and that very soon.

13. He did not tell you, did he, that the map was to be used before the land commission to show the half league to which the heirs were entitled?

Ans. He did not.

14. Did he tell you that the map exhibited the half league to which the heirs were entitled or anything on that subject?

Ans. I do not remember.

15. Did you examine the map, to see what land it represented?

Ans. I did not.

16. Please state all that de Zaldo said to you on that occasion, as near as you can remember?

Ans. I cannot remember, because Mr. de Zaldo says so much that when he gets through you cannot tell what he has said.

624 17. Can you not remember anything he said?

Ans. I cannot.

18. Who at that time had the general management of the estate of your father?

Ans. De Zaldo was the administrator.

19. Was it before or after your sister Josefa was married to Mr. Denniston that de Zaldo showed you the map?

Ans. It was after.
Deposition closed.

NATIVIDAD DE HARO TISSOT.

Sworn to and subscribed this 19th September, 1862, before me.
W. H. CHEVERS, *U. S. Com.*

Endorsed: Filed January 31st, 1863.
W. H. CHEVERS, *Clerk.*

625 *Deposition of Sol. A. Sharp, on part of claimant and intervenor Mahoney.*

In the district court of the United States for the northern district of California.

THE UNITED STATES *vs.* JOSEFA DE HARO. } In land cases, dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this 19th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California, to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared Solomon A. Sharp, a witness produced in behalf of the int. Mahoney and cl't in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows:

Present: S. A. Sharp, esq., for int. Mahoney and claimant, and W. H. Sharp, U. S. att'y, for the U. S.

Questions in behalf of the int. Mahoney and cl't.

626 Question 1st. What is your name, age, and place of residence?

Ans. My name is Solomon A. Sharp; my age is 32 years; I reside in San Francisco.

2. Did you know Felix Argenti in his lifetime?

Ans. I did.

3. State whether you ever had any conversation with Felix Argenti with respect to the location by him of certain school warrants on a portion of the land claimed in this case; if so, state fully what declaration Argenti made to you on the subject.

(Objected to as incompetent, irrelevant, and hearsay.)

Ans. I had several conversations with Felix Argenti in his lifetime in reference to the location of school warrants upon the land referred to in the question. The substance of those conversations, as near as I recollect, was that Ramon de Zaldo furnished him information of the land, and of its being public lands, upon which the war-

627 rants might be located; that Leander Ransom made the surveys, and that he, Argenti, furnished the money to purchase the warrants, and that they were all three to be equally interested in the land covered with the warrants, after reimbursing Argenti for the money advanced on the purchase of the warrants. He told me that there was a paper containing the whole terms between him, de Zaldo, and Ransom, and that he would furnish me a copy of it. He never furnished me with the copy, although he promised repeatedly to do so. He claimed an interest in the land covered by the warrants up to about the time of his death, and insisted that his title to the land was the best; that the sales of a portion of it, made by Eugene Delessert, receiver, in the suit of Cavallier *vs.* Argenti, were irregular and invalid, and did not divest him of his title; that the parties who floated the warrants had no right to float them. He said a good many other things to me about the lands and the warrants, but substantially as I have stated. He also complained about having to pay the county surveyor his fees for locating the warrants, and said that Col. Ransom was to do the surveying. My recollection is that Argenti told me he had the paper referred to in his possession.

628 Since his death I applied to his brother and his widow, who is acting as his executrix, for the paper, and to make diligent search for it, but have been unable to get it. They informed me that they made the search as requested, but could not find it. When Ramon de Zaldo was first examined before Mr. Rice, a notary public in this case, I requested Felix Argenti to be present at the examination; he came as far as the door of the room in which the examination was had, but declined entering the room, and, to my best recollection, did not, but told me that he would furnish me the paper I have before referred to, or a copy of it, and that would explain the whole transaction. I applied to him frequently for the paper, and he has often promised to furnish it. His manner was a little mysterious about the matter, and induced me to believe that he was fearful, if he furnished me with the paper, that it would conflict with his interest. My object in having these conversations with him was, for the purposes of this case, to ascertain the truth in relation to the arrangement between himself, de Zaldo, and Ransom, and the particulars

629 of the survey of the half league by Ransom.

(Answer objected to by counsel for the U. S. as incompetent and irrelevant, and because the original written contract between Argenti, de Zaldo, and Ransom, if any such exists, is the best evidence of its contents.)

Cross-examination.—Questions by counsel for the U. S.

Ques. 4. Are you not one of attorneys of record for the claimants in this case?

Ans. I am.

5. Did you not know all the facts to which you have deposed a considerable time before the cause was submitted to the judge of this court for adjudication upon the survey?

Ans. I did. My opinion then and now, as a lawyer, is that there

was no selection of any particular half league of land, and that it is unnecessary to adduce any proof upon that question.

6. What was your purpose in requesting Argenti to be present when de Zaldo was examined before Rice?

630 Ans. I had not much confidence in de Zaldo, and I thought Argenti's presence, he knowing all the facts, would induce de Zaldo to confine himself more strictly to the truth.

7. After de Zaldo's examination was concluded, did you read it to Argenti, or cause it to be read, or procure Argenti to read it?

Ans. I don't remember of reading it to Argenti, or causing it to be read, or procuring him to read it, but I remember of telling Argenti, from my memory, at that time, of the principal facts deposed to by de Zaldo.

8. Was Argenti your client at the time you had these conversations with him?

Ans. He consulted me generally about his business, and was my client in other cases, but not in respect to the lands covered by the school warrants.

9. Are you not interested in the lands in contest in this suit, claiming title thereto under the grant to de Haro?

631 Ans. I have an equitable interest, but no legal estate.

10th. Do you not consider that your interest will be promoted if the official survey in this case is approved?

Ans. I think my interest, if we are allowed by the court to locate the half league upon any land we may select within the external boundaries, will be promoted.

11th. Do you, as a surveyor, consider yourself competent to testify in this cause?

Ans. My opinion is, that I am not, if objected to. I do not believe that I could tell the truth more accurately than I have, if I were disinterested and perfectly competent as a witness.

(The last part of the answer is objected to, as not responsive to the question, by counsel for the U. S.; and the whole of the deposition is objected to, as the witness is incompetent to testify, on the ground of interest.)

Deposition closed.

SOL. A. SHARP.

Subscribed and sworn to this 19th day of Sept., A. D. 1862, before me.

632 W. H. CHEVERS,
U. S. Com'r.

Endorsed: Filed Jan. 31, 1863.

W. H. CHEVERS, *Clerk.*

Deposition of Josefa de H. Denniston, on part of int. Mahoney and claimant.

In the district court of the United States for the northern district of California.

THE UNITED STATES *vs.* JOSEFA DE HARO. } In land cases, dist. court, No. 380.—Land com. No. 102.

Be it remembered, that on this 19th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared Josefa de Haro Denniston, a witness produced in behalf of the int. Mahoney and cl't in the above-entitled cause, now pending in
633 said court under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows, his evidence being interpreted by A. D. Splivalo, a sworn interpreter:

Present: S. A. Sharp, esq., for int. Mahoney and claimant, and W. H. Sharp, U. S. att'y, for the U. S.

Questions in behalf of the int. Mahoney and cl't.

Question 1st. What is your name, age, and place of residence?

Ans. My name is Josefa de Haro Denniston; my age is 36 years; I reside at the Mission Dolores.

2. Are you a daughter of the late Francisco de Haro?

Ans. I am.

3. Do you recollect having, in 1853, authorized Ramon de Zaldo, or any other person, to make a selection in your behalf, as one of the heirs of Francisco de Haro, of any particular half league of land, as the half league claimed by your family as the rancho Laguna de la Merced?

634 (Objected to as leading.)

Ans. I do not. I never authorized anybody to do so.

4. Did Ramon de Zaldo, in 1853, show you a plat of a survey, made by Leander Ransom, of the rancho Laguna de la Merced, and show you on said plat the location of the particular half league the claim to which was to be prosecuted before the board of land commissioners by the heirs of Francisco de Haro?

Ans. I saw the map laying on the table in de Zaldo's house, while de Zaldo was showing it to my husband; but I did not go near it.

5. Did you at that time authorize your husband to make a selection for you, as one of the heirs?

Ans. I never did. I never authorized anybody.

6. Where has been the residence of your husband since your marriage?

Ans. He resides some of the time on the ranch in San Mateo
635 county, and some of the time at the Mission Dolores; most of the time at the latter place. He has never resided on the rancho "Laguna de la Merced."

7. As one of the heirs of Francisco de Haro, do you know whether you now have any interest in the rancho Laguna de la Merced?

Ans. I have; I think I have an interest as an heir of de Haro.

Examination adjourned for cross-examination.

JOSEFA HARO DENNISTON.

Counsel for U. S. objects to the testimony of this witness on the ground that she is interested in the result of the suit.

Cross-examination waived.

Deposition closed.

Subscribed and sworn to this 19th day of September, A. D. 1862, before me.

W. H. CHEVERS,
U. S. Com.

Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

Deposition of Charles Brown, on part of int. Mahoney and claimant.

636 In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* JOSEFA DE HARO *et al.* } In land cases, dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this 29th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared Charles Brown, a witness produced in behalf of int. Mahoney and claimant in the above-entitled cause, now pending in said court under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows:

Present: S. A. Sharp, esq., for int. Mahoney and claimant, and W. H. Sharp, U. S. att'y, for the U. S.

Questions in behalf of the int. Mahoney and cl't.

637 Question 1st. What is your name, age, and place of residence?

Ans. My name is Charles Brown; my age is 48 years; I reside at the Mission Dolores.

2. Did you marry one of the children of Francisco de Haro? If so, when and whom?

Ans. I married Rosalia de Haro, in 1850.

3. Do you remember a survey made by Leander Ransom, in 1853, of the external boundaries of the rancho Laguna de la Merced?

Ans. I do. I was not present at that survey. I was present when he made a survey for me about that time; which survey is shown on Exhibit Ransom A, No. 1, by the tract enclosed by green lines, and including the Lake House.

4. Did you claim the tract surveyed for you by Ransom? If so, under what title?

638 Ans. I had it surveyed in the name of my wife, as all the ranchos were supposed to adjoin it. My wife's mother had asked for a concession of land which was never granted, and I was satisfied that it was not in the half league granted to Galindo.

5. Where did you reside when you were first married?

Ans. At the Mission Dolores.

6. Did you remove, from the half league purchased from Galindo by the de Haro family, any building belonging to your wife, on to the tract surveyed by Ransom for you in 1853, and which you have stated to be a part of the augmentation asked for by your wife's mother; and if so, in what year was that removal made?

Ans. I did. It was in the fall of 1851.

7. Did you ever mortgage or dispose of the tract surveyed for you by Ransom? And if so, state when, and under what circumstances?

Ans. I mortgaged it about the years 1855 or 1856.

639 8. Do you recollect a survey made by Leander Ransom in 1853 of a half league within the external boundaries surveyed by him, as before stated; and if so, did you, on behalf of Alonzo de Haro, authorize Ramon de Zaldo, or Leander Ransom, to make such selection?

Ans. All the survey that I know of is the survey he made for me. I never authorized either Ransom or de Zaldo to make such selection.

9. Do you know whether at that time your wife, or any other of the heirs of de Haro, authorized de Zaldo or Ransom to make that selection?

Ans. He was never authorized by any of them.

10. Did you hear at that time that school warrants were to be located upon some portions of the land originally bought by the de Haros from Galindo; and if so, by whom did you hear they were to be so located, and for whose benefit?

(Objected to as incompetent, irrelevant, and hearsay.)

640 Ans. The first that I knew of the school warrants was the published sale of Wainwright and Randall; then I heard that Argenti de Zaldo and Ransom had taken up some 1,600 acres. I then went and had some posters printed, and stopped the sale by Wainwright and Randall.

11. Are the advertisement marked "A," and the paper marked

"B," annexed to your affidavit, forming part of the petition for rehearing in this case, copies of the advertisement and poster you refer to?

Ans. They are.

Cross-examination.—Questions by counsel for the U. S.

Ques. 12. When did you first become acquainted with the external boundaries of the de Haro ranch?

Ans. It must have been in 1842.

13. Explain what were the external boundaries as you understood them.

Ans. The laguna San Bruno on the southeast corner; the
641 laguna Alta on the southwest, and the laguna Puerca on the north; bounded by the main road from San Francisco to San José on the east, and the sea on the west.

14. Who pointed out these boundaries to Ransom at the time he made his survey in 1853?

Ans. I don't know.

15. Had you any conversation with Ransom in respect to said boundaries shortly before, or at the time of, or soon after the survey was made?

Ans. No, sir; at the time, before, after, or never.

16. Did you see Ransom on the ground at any time when he was making said survey?

Ans. I think I did; I am not positive. The only survey that I remember was the one he made for me.

17. Did you not see José de la Cruz Sanchez on the ground about that time?

Ans. I did not.

642 18. Did you know that Ransom was there for the purpose of making a survey of the ranch about that time?

Ans. All the survey that I know of was the one he made for me.

19. When did you first hear that Ransom had made a survey of the whole ranch; was it before or after he made the survey for you?

Ans. The first time I heard of it was when I published the notice—when he had the ranch for sale.

20. Before that time you had never heard from rumor, or otherwise, that he had made any survey of the ranch?

Ans. I had heard that there had been a survey made from Mr. de Zaldo, I think it was; I am not positive.

21. How long was it before you issued the notice that you heard from de Zaldo that the survey had been made?

643 Ans. I don't remember; it might have been a week; it might have been three days.

22. How did de Zaldo happen to tell you about the survey?

Ans. I don't know; I suppose he took a notion to; I am sure I did not ask him about it.

23. Do you state positively that you were not present at any time whilst Ransom was running the lines, and that you did not point out

or explain to him where the lines were, and that you were not present with José de la Cruz Sanchez and Ransom on the occasion when the said Sanchez was pointing out the said boundaries to Ransom?

Ans. I never saw Sanchez and Ransom there together, nor did I ever point out any boundaries to Ransom, nor more than in my own survey before referred to.

24. Did you ever on any occasion have any conversation with Ransom about the external boundaries of the ranch?

Ans. I might have had.

644 25. What is your recollection about it?

Ans. I have none.

26. When did you first see a plat of Ransom's survey? Was it before or after the notice you published?

Ans. The day before the notice was published.

27. Where did you see it, and who showed it to you?

Ans. It was shown to by Mr. Wainwright, at Wainwright & Randall's auction room.

28. Had you heard before then that Ransom had surveyed and located the half league?

Ans. The day that I went there I heard that for the first time, and that they had located on about 1,500 acres of the de Haro property, and were about to sell.

29. Had you ever seen before that time the grant, diseño, and title-papers of the de Haro ranch?

Ans. I have never seen the papers of the de Haro ranch.

645 30. What was your opinion at the time you published the notice, from all that you had heard at that time in respect to de Haro's claim, as to the quantity of land to which the heirs were entitled under the grant? Was it then your opinion that they were entitled to all the land within the external limits, or only to a half league?

Ans. My opinion was that they owned what they bought of Galindo.

31. Did you understand that to embrace all the land lying between the Camino Real on the east, the ocean on the west, Laguna Puerca on the north, and Laguna San Bruno and the Buriburi line on the south? Was that the land that you understood de Haro bought from Galindo?

Ans. I did not so understand it at all.

32. What, then, was the land that you did understand the bought of Galindo?

Ans. A half a league of land adjoining the Buriburi rancho,

646 a league long north and south, by half a league east and west.

33. Was that the land which in 1853 you considered the heirs of de Haro entitled to under the grant?

Ans. That is the land I always considered they were the owners of.

34. You did not then consider that they were entitled to the remainder of the land contained within the exterior boundaries?

Ans. I don't think they were.

35. Do you mean to be understood as stating that you took up the

land surveyed for you by Ransom, because you believed it was outside of the half league purchased from Galindo, and therefore did not belong to the heirs?

Ans. I do.

36. At the time when you procured Ransom to make that survey for you, had you heard that Argenti, de Zaldo, and Ransom had located or were about to locate the school warrants?

647 Ans. I had not. The first I heard of the school warrants was at the time I issued the notices. I might have heard of it verbablly prior to that time, but I never knew it as a fact.

37. Had you not heard, before the survey was made for you by Ransom, that Argenti, Ransom, and de Zaldo were about to locate school warrants on the land?

Ans. I don't remember to have heard or known anything about it before the time mentioned.

38. When you took up the land included in Ransom's survey for you, did you take it up as public land?

Ans. I took it up as a sobrante asked for by my mother-in-law, but I don't know that it was granted to her.

39. Do you mean to say that you took it up because it was a part of your mother-in-law's estate, or that you so considered it at that time?

Ans. I considered that she asked for it.

648 40. Did you then believe that it had been granted to her, or that the heirs had any right to it because she had applied for it?

Ans. I tried to make some people believe it did. I did not believe it belonged to them, but I tried to make every one else believe that it did. I thought they had as much right to it as anybody else in those times.

41. Are you the same Charles Brown whose affidavit is annexed to the petition of the claimants for rehearing in this cause?

Ans. I am.

42. Did not de Zaldo, as administrator of the estate, and yourself, in January, 1853, make a lease to Anderson, White, and Jones of a portion of the premises included in Ransom's survey for you?

Ans. At my request he did, and we both did, as the claim was for a sobrante, and I had it surveyed in her name.

43. In saying that you had it surveyed in her name do you allude to Ransom's survey made for you?

649. Ans. I do.

44. Was said survey made before the lease to Anderson, White, and Jones?

Ans. I don't remember exactly whether it was before or after, though I think it was after.

45. To whom did you make the mortgage upon the land Ransom surveyed for you?

Ans. I think it was Michael Reese.

46. Did you not, in the summer or fall of 1853, or about that time, take up a claim for 160 acres of land within the exterior boundaries

of the ranch and south of the south line of Ransom's survey of the half league?

Ans. I did not.

47. Did you at any time tell J. S. Colgrove or J. S. Clark that you were about to take up such claim in the name of one Perkins, and did you not cause to be hauled upon the ground some lumber with a view to enclose or improve the said claim?

650 Ans. I remember of Russel C. Perkins pre-empting 160 acres. I myself furnished him lumber to build a house; but as for telling Mr. Clark or Mr. Colgrove I don't remember, though I might have told them so.

48. Did you advise Perkins not to take up a pre-emption claim there?

Ans. I did not.

49. Had you no interest in Perkins's claim?

Ans. No more than for his interest. He was an old friend of mine, and came to the country with me.

50. Did you never tell any one that the land south of the south line of Ransom's survey of the half league was government land?

Ans. Not to my knowledge.

51. Examine the paper now shown to you on file in this cause, marked Exhibit Marr, No. 1, and state whether you are the same Chas. Brown who signed that paper as guardian of Alonzo de Haro.

651 Ans. I am the same.

52. Is not the land described in that paper a part of the land included in the survey made by Ransom for you?

Ans. It is.

53. Has your wife, at any time, sold, conveyed, or parted with the interest in the rancho Laguna de la Merced, to which she was entitled as one of the heirs of her father; if so, how, and to whom?

Ans. I think she has; she conveyed it to Mr. Mahoney, I believe.

54. Did you unite in the deed?

Ans. I believe I did.

55. About what time was the deed made?

Ans. I don't remember; somewhere about three or four years ago, I think.

56. How much did Mahoney pay for said land?

Ans. Somewhere in the neighborhood of $800 or $1,000; I don't remember exactly.

652 57. Have you or your wife no interest in any manner in the said ranch, or in the result of this suit?

Ans. None whatever.

58. What house was it that belonged to your wife, which you say you removed from the south side of the lake to the Lake House?

Ans. A house that Andrews her former husband lived in. It was at the southern end of the lake.

Direct examination resumed.—Questions by counsel for cl't.

Ques. 59. In answer to ques. 47 you speak of the pre-emption of Russel C. Perkins. State where the land was situated, and whether you at that time considered it within the limits of the land purchased from Galindo?

Ans. I did not consider it within the limits of the land purchased from Galindo. It was east of that.

Deposition closed.

CHARLES BROWN.

Subscribed and sworn to this 20th day of September, A. D.
653 1862, before me.

W. H. CHEVERS, *U. S. Com.*

Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

Deposition of R. C. Mathewson, on part of int. Mahoney and claimant.

In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* JOSEFA DE HARO. } In land cases, dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this 20th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared R. C. Mathewson, a witness produced in behalf of int. Mahoney and cl't in the above-entitled cause, now pending in said court,
654 under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows.

Present: S. A. Sharp, esq., for int. Mahoney and claimant, and W. H. Sharp, U. S. att'y, for the U. S.

Questions in behalf of the int. Mahoney and cl't.

Question 1st. What is your name, age, place of residence, and profession?

Ans. My name is R. C. Mathewson; I am of lawful age; I reside in San Francisco; my profession is that of civil engineer and surveyor.

2. Did you, as deputy U. S. surveyor, make a survey of the rancho

Laguna de la Merced, under instructions from the surveyor general of the U. S. for California, dated 25th March, 1858?

Ans. I did.

3. Please produce those instructions, that a copy may be made by the commissioner to be annexed to your deposition, and marked Exhibit Matthewson, No. 1.

655 Ans. I here produce them.

4. Have you a plat of the said survey; if so, please produce it, that it may be annexed to this deposition, marked Exhibit Matthewson, No. 2.

Ans. I now produce the plat.

5. State when the said survey was completed, and whether it was approved by the surveyor general; and if not, for what reason?

Ans. It was commenced on the 15th April, 1858, completed about a week afterwards, and was rejected by the surveyor general, I think, on the ground that it was not in a sufficiently compact form. I then made the official survey under the same instructions, which last survey was approved by the surveyor general.

Cross-examination.—Questions by counsel for the U. S.

Ques. 6. Was the location of the land as made by the official survey, the result of an election by the claimants?

656 Ans. No; I think it was the result of the surveyor general's idea of what the survey ought to be. The claimants wanted to extend the southern portion of it towards the west and the ocean.

7. Did you receive any oral instructions from the surveyor general, in addition to the written instructions referred to?

Ans. I did. Instead of running the lines due north and south, as I run them in the first survey, in accordance with the decree, he requested me to run them to the west of north and east of south, in conformity to the land as delineated on the diseño.

8. Why did you commence the said survey at the southern extremity of the ranch, instead of locating the tract of half a league further to the north?

Ans. My instructions required me to regard "the actual occupation of the original grantee, and the ancestor of the present claimants," and the site of their house or houses was pointed out to me close to the southern boundary of the ranch, as located by me in both surveys.

657 9. Were you aware at the time of said survey that de Haro had built and occupied another house, near the southern extremity of the Laguna de la Merced?

Ans. I was. It is included in the official survey; all these houses were included in the official survey, and also in the original survey.

10. Was that the reason which induced you to commence the survey so far to the south?

Ans. That was the principal reason. That is, the object was to include the ruins of Galindo's and de Haro's old houses.

11. Describe the general quantity of the land included in the official survey.

Ans. The land is principally rolling and hilly ; the soil principally of the very best quality for agricultural purposes. Small portions of it, towards the east and north, are sandy, and comparatively level.

The best lands are on the hills. The western and southern
658 portions are hilly ; the soil is a rich loam.

12. What is the character of the land within the exterior limits of the tract, north and east of the official survey ?

Ans. To the east it is a sandy plain, extending to the San Bruno mountains, and I believe it is about the same character to the north, so far as I am acquainted with it.

13. Were you not instructed by the surveyor general to include in the official survey any land sold by the claimants, or either of them, in the neighborhood of the lake house ?

Ans. I was not. When I made the survey I had no official notice of any land being sold by the claimants ; and if I had, I would have been compelled, under my general instructions, to include such land in the survey whenever it could be done without destroying the compactness of it.

Deposition closed.

R. C. MATTHEWSON.

659 Sworn to and subscribed this 20th September, 1862, before me.

W. H. CHEVERS, *U. S. Com.*

Endorsed : Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

Exhibit Matthewson, No. 1, *annexed to depo'n of R. C. Matthewson.*

U. S. SUR'R GEN'L'S OFFICE,
San Francisco, Cal., 25th March, 1858.

SIR : The decree of the U. S. court for the northern district of California, affirming a decree of late board of land commissioners, and confirming the claims of Josefa de Haro *et al.* to the tract called "Laguna de la Merced," having become final by the vacation of the appeal heretofore taken by the United States from said decision, I have thought proper to appoint you my special deputy to make the final survey thereof.

The decree of the court is as follows : "The land of which confirmation is hereby made is known and called 'Laguna de la
660 Merced,' and is situated in the county of San Francisco, and is of the extent of one-half a square league, being one league from north to south, and half a league from east to west, to be located according to and within the calls of the original grant and within the limits delineated on the map contained in the espediente, to both of which reference is hereby made for a more particular description, regard being also had to the actual occupation of the original grantee, and the ancestor of the present claimants."

In the original grant to José Antonio Galindo it is stated that the party having petitioned for "the tract of land known under the name of Laguna de la Merced, the boundaries of which are represented in the sketch," the same was granted to him, the fourth clause of which being as follows: "The parcel of land mentioned is a league in latitude and half a league in longitude, and is equal to half a 'sitio de ganado mayor,' as appears by the sketch accompanying the proceedings."

Herewith you will receive a copy of the map referred to as forming part of the espediente; the decree referring also to the
661 actual occupation of the land. I also enclose herewith an abstract of the testimony presented to the land comm'rs in respect thereto.

You will make the survey in strict conformity to the decree of the court, and in doing so and in making your returns, you will be careful to conform to the direction contained in the general instructions to deputies issued from this office in January last.

You are aware that you are not allowed to receive from the parties interested therein any compensation for making the survey now directed, and that I am instructed not to approve of any survey for which the deputy has received any such payment.

Very respectfully,

J. W. MANDEVILLE,
U. S. Sur. Gen'l, Cal.

R. C. MATTHEWSON, *Dep. Sur.*

A true copy.

W. H. CHEVERS, *U. S. Com.*

Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

662 (Here follows map, page 662.)

663 *Deposition of Henry A. Cobb, on part of int. Mahoney and claimant.*

In the district court of the United States for the northern district of California.

THE UNITED STATES
v.
JOSEFA DE HARO *et al.*
} In land cases, dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this 20th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally

appeared Henry A. Cobb, a witness produced in behalf of int. Mahoney and cl't in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows.

Present: S. A. Sharp, esq., for int. Mahoney and claimant, and W. H. Sharp, U. S. att'y, for the U. S.

Questions in behalf of the int. Mahoney and cl't.

664 Question 1st. What is your name, age, and place of residence?

Ans. My name is H. A. Cobb; my age is 45 years; I reside in San Francisco.

2. Do you recollect in 1858 of selling at public auction, at Redwood City, certain real estate known as the rancho Laguna de la Merced? If so, under whose direction did you make the sale?

Ans. I do. Under the direction of Ramon de Zaldo.

3. At the time of the sale was there a map exhibited, showing the location of the property?

Ans. There was. It was furnished by de Zaldo.

4. Do you recollect of any school warrants having been previously located on the land you so sold at Redwood City? If so, state all that you know about them, and whether they were afterwards floated.

Ans. Yes. They were located by Felix Argenti, sold by Delessert, receiver, and afterwards, I believe, floated. I made
665 the sale myself.

5. Do you recollect the southern boundary of the land sold by you at Redwood City?

Ans. I recollect one of the boundaries—Lake San Bruno.

Counsel for claimant offer in evidence, as exhibits to this deposition, the deed of Ramon de Zaldo, administrator, for the lands sold at Redwood City, to Josefa de Haro Denniston, and a certified copy of the deed from Josefa de Haro Denniston to D. Mahoney, to be annexed hereto, and marked Exhibit Cobb, Nos. 1 and 2.

Cross-examination.—Questions by counsel for the U. S.

Ques. 6. Do you remember whether the sale was made by de Zaldo as administrator of the estate of Francisco de Haro, deceased, under an order of the probate court?

Ans. It was.

7. Who was the purchaser at that sale, and for what price?

666 Ans. Josefa de Haro Denniston was the purchaser; the price was $2,350.

8. How long have you been engaged in the real estate business in California?

Ans. Since 1854 or 1855.

9. Are you acquainted with the value of lands in the neighborhood of the lake house, and lying between that and the county road to San José?

Ans. I am, generally.

10. Examine the paper now shown to you, on file in this cause, marked Exhibit Ransom, A No. 1, and state your opinion of the value of the lands included in the pink lines, containing about 2,200 acres.

(Objected to as irrelevant, because the value of land, from its contiguity to the city of San Francisco, is not an element in this case.)

Ans. With a perfect title, those lands are worth from $20 to $150 an acre at this present time.

667 11. State whether you are more particularly acquainted with the lands included within the small red lines on said map; if so, what do you consider their present value?

(Same objection as last, and because it is not a cross-examination on any matter brought out on the direct examination.)

Ans. I do not consider that I am better posted as to the exact lay of that land.

Deposition closed.

H. C. COBB.

Subscribed and sworn to this 20th day of September, A. D. 1862, before me.

W. H. CHEVERS,
U. S. Com.

Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

668 *Exhibit Cobb No.* 1, *annexed to depo. of H. C. Cobb.*

This indenture, made the sixth day of July, A. D. eighteen hundred and fifty-eight, at the city of San Francisco, by and between Ramon de Zaldo, the duly appointed and qualified administrator of the estate of Francisco de Haro, deceased, party of the first part, and Josefa de Haro Denniston, of the city and county of San Francisco, party of the second part, witnesseth: Whereas, on the 26th day of October, A. D. 1857, the probate court within and for the city and county of San Francisco, made an order of that date, authorizing and directing the party of the first part to sell certain real estate of the said Francisco de Haro, deceased, and particularly set forth and described in said order of sale, a certified copy of which is hereunto annexed and made a part of this deed; and whereas, under and by virtue of said order of sale, and pursuant to legal notices given thereof, the said party of the first part did, on the 9th day of June, A. D. 1858, at the court-house door in Redwood City, in the county of San Mateo, between the hours of 10 o'clock a. m. and the setting of the sun, offer for sale to the highest bidder the real estate as de-

669 scribed and set forth in the aforesaid order of sale, and at such

sale the said party of the second part became the purchaser, for the sum of twenty-three hundred and fifty dollars, ($2,350,) that being the highest bid offered therefor; and whereas the said probate court, upon the return of said sale, made at the next term thereof by the said party of the first part, did, on the 21st day of June, A. D. 1858, make an order confirming said sale, and directing a conveyance to be made and executed therefor, a certified copy of which order of confirmation is also annexed, and hereby referred to and made a part of this indenture:

Now, therefore, the said party of the first part, pursuant to the order of said probate court, and for and in consideration of the sum of twenty-three hundred and fifty dollars ($2,350) to him in hand paid, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and conveyed, and by these presents does grant, bargain, sell, and convey, unto the said party of the second part, her heirs and assigns forever, all the right, title and interest, and estate of the said Francisco de Haro at the time of his death, and also all the
670 right, title, and interest acquired by the party of the first part for the estate of said Francisco de Haro since his decease, in and to all that certain tract or parcel of land situated in the county of San Mateo, and known particularly as the Laguna de la Merced, being one (1) league in length by one-half ($\frac{1}{2}$) league in breadth, and containing twenty-two hundred and nineteen and forty-two hundredths ($2,219\frac{42}{100}$) acres, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, to have and to hold all and singular the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, her heirs and assigns forever.

In witness whereof, the party of the first part, administrator as aforesaid, has hereunto set his hand and affixed his seal the day and year first above written.

RAMON DE ZALDO, [SEAL.]
Administrator of the Estate of
Francisco de Haro, deceased.

671 STATE OF CALIFORNIA,
County of San Mateo, ss:

On this seventeenth day of September, A. D. 1858, before me, a county clerk in and for the county aforesaid, personally appeared Ramon de Zaldo, personally known to me to be the person described in and who executed the foregoing deed, as the administrator of the estate of Francisco de Haro, deceased, and acknowledged that he, as administrator aforesaid, executed the same freely and voluntarily, for the uses and purposes therein set forth.

Witness my hand and seal the day and year first in this certificate above written.
[SEAL.]

B. G. LATHROP,
County Clerk.

In the probate court of the city and county of San Francisco, in the matter of the estate of Francisco de Haro, deceased.

Upon reading and filing the report of Ramon de Zaldo, administrator of the estate of Francisco de Haro, deceased, of his proceedings in making a sale of the rancho Laguna de la Merced, be-
672 longing to said estate, and it appearing to the court that the sale was legally made and fairly conducted, and that the sum bid was not disproportionate to the value of the property sold, and that a greater sum cannot be obtained—

Now, therefore, it is ordered by the court now here, that the said sale be, and the same is hereby, confirmed in all respects; and it is further ordered, that the said administrator be directed, and he is hereby directed, to execute a good and sufficient conveyance to the purchaser, Josefa de Haro Denniston.

Witness my hand, at the court-room of said court, in the said city and county of San Francisco, this 21st day of June, A. D. 1858.

M. C. BLAKE,
Probate Judge.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, William Duer, county clerk of the city and county of San Francisco, State of California, and ex officio clerk of the probate court thereof, do hereby certify the foregoing to be a true copy of an order of confirmation of sale, on file and of record in my office.
673 Witness my hand and the seal of said court this 21st day of June, A. D. 1858.

[SEAL.] WILLIAM DUER, *Clerk*,
By D. P. BELKNAP, *Deputy*.

In the matter of the estate of Francisco de Haro, deceased.

PROBATE COURT, *October 26th*, 1857.

It appearing to my satisfaction that the estate of Francisco de Haro is indebted to Ramon de Zaldo in the sum of $2,035 $\frac{53}{100}$, for moneys paid out and services rendered as administrator of said estate; and it appearing, further, that the said estate is not possessed of any money or personal property wherewith to pay the said demand, and that there is a sufficient amount of real estate belonging to said estate to pay and satisfy said demand; and the several heirs of the deceased having been heard in opposition to the petition of said de Zaldo, asking for an order of sale of real estate, and such objections having been overruled: Now, therefore—

It is ordered, that the administrator be, and he is hereby, authorized and empowered to sell so much and such parts of the real estate described in said petition, and hereinafter set forth, as shall be necessary to pay the said sum heretofore found due said de Zaldo, and expenses of sale.
674 The property of which a sale is hereby authorized is de-

scribed in said petition as being one league by a half a league of land, called Laguna de la Merced, situated in the city and county of San Francisco, and county of San Mateo. Said sale shall be conducted in accordance with the provisions of the statute regulating the sales of real estate of deceased persons.

[SEAL.] T. W. FREELON, *County Judge.*

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, William Duer, county clerk of the city and county of San Francisco, State of California, and ex officio clerk of the probate court thereof, do hereby certify the foregoing to be a true copy of the original order on file and of record in my office.

Witness my hand, and the seal of said probate court this 22d day of June, A. D. 1858.

WILLIAM DUER, *Clerk.*
By D. P. BELKNAP, *Deputy.*

Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

675 *Exhibit Cobb No. 2, annexed to depo'n of H. A. Cobb.*

This indenture, made the tenth day of August, in the year of our Lord one thousand eight hundred and fifty-eight, between James Denniston, and Josefa de Haro Denniston, his wife, of the city and county of San Francisco, parties of the first part, and David Mahoney, also of said city and county, party of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of two thousand and four hundred dollars, lawful money of the United States of America, to them in hand paid by the said party of the second part, at or before the ensealing and delivery of these presents the receipt whereof is hereby acknowledged, have remised, released, and quitclaimed, and by these presents do remise, release, and quitclaim unto the said party of the second part, and to his heirs and assigns forever, all that certain tract, piece, or parcel of land known as "Laguna de la Merced," situate, lying and, being in the county of San Francisco, and the county of San Mateo. Said entire tract contains one-half square league, being the same heretofore granted to Francisco de Haro by decree of the United States district court, and purchased by the said Josefa de Haro Denniston on the ninth day of June, A. D. 1858, at a public auction of said tract of land made at Redwood
676 City, in San Mateo county, by order of the probate court of the city and county of San Francisco. Together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, and the reversion, remainder and remainders, rents, issues, and profits thereof; and also all the estate, right, title, interest, homestead, property, possession, claim, and demand whatsoever, as well in law as in equity, of the said parties

of the first part, of, in, or to the above-described premises, and every part and parcel thereof, with the appurtenances. To have and to hold all and singular the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, and his heirs and assigns forever.

In witness whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

JAMES G. DENNISTON. [L. S.]
JOSEFA HARO DENNISTON. [L. S.]

Signed, sealed, and delivered in the presence of—

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

677 On this eleventh day of August, A D. one thousand eight hundred and fifty-eight, before me, Henry A. Cobb, a notary public in and for said county, personally appeared James Denniston and Josefa de Haro Denniston, his wife, personally known to me to be the individuals described in and who executed the annexed instrument as parties thereto, and acknowledged to me that they executed the same freely and voluntarily, and for the uses and purposes therein mentioned. And the said Josefa de Haro Denniston, wife of the said James G. Denniston, having been by me first made acquainted with the contents of said instrument, acknowledged to me, on examination apart from and without the hearing of her husband, that she executed the same freely and voluntarily, without fear, or compulsion, or undue influence of her husband, and that she did not wish to retract the execution of the same.

[L. S.] In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

H. A. COBB, *Notary Public.*

A true copy of an original, recorded July 10th, A. D. 1862, at 2 p. m., by request of David Mahoney.

678 B. G. LATHROP,
County Recorder,
By T. W. LATHROP, *Deputy.*

SAN MATEO COUNTY, *ss:*

I hereby certify the foregoing to be a full, true, and correct copy of an original deed, as it appears of record in book 3 of deeds, page 212, records of San Mateo county.

[SEAL.] Witness my hand and official seal this 25th day of September, A. D. 1862.

B. G. LATHROP,
County Recorder,
By T. W. LATHROP, *Deputy.*

Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

Deposition of Alfred A. Green, on part of intervenor D. Mahoney.

In the district court of the United States for the northern district of California.

THE UNITED STATES } In land cases, dist court No. 380.—Land com.
v. } No. 102.
JOSEFA DE HARO. }

679 Be it remembered that on this ninth day of October, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California, to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared Alfred A. Green, a witness produced in behalf of the int. Mahoney, in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows.

Present: S. A. Sharp, esq., for int. Mahoney, and W. H. Sharp, esq., U. S. att'y, for the U. S.

Questions in behalf of the intervenor Mahoney.

Question 1st. What is your name, age, and place of residence?

Ans. My name is Alfred A. Green; my age is 33 years; I reside at present in San Francisco.

2. When did you first come to California?

680 Ans. I arrived in the port of San Francisco in the month of March, 1847.

3. Do you know the land in the vicinity of the Laguna de la Merced? If so, when did you first become acquainted with it?

Ans. I have been acquainted with that land and its vicinity since the latter part of 1849 or beginning of 1850. About that time Francisco Guerrero, the then husband of Josefa de Haro, was managing the affairs of the de Haro family. He had a suit before a justice of the peace, who, I think, was F. P. Tracy, claiming a small portion of what is to-day known as the Noé ranch, claiming it as a part of the de Haro ranch. At that time there was some testimony taken to show what the boundaries of the de Haro ranch were, they claiming a league, running from the line of the Buriburi ranch to the north. Guerrero, on behalf of the de Haro family, leased different portions of what was considered the de Haro ranch to one party who had a house and corral, who kept a milk ranch. The house and corral were about the same locality as that marked on Ransom's map "old houses," which was leased as late as 1853. The late Fran-

681 cisco Guerrero was an intimate friend of mine. He pointed out to me where the league of land would come, measured from the Buriburi to the north. At a later period, I think in

1852, being very friendly with the de Haro family, and wishing to settle upon what was called the "Bolsa," I asked the grown members of the family, who were Josefa de Haro, the widow of Guerrero, Mrs. Cha's Brown, the widow of Andrews, if the de Haro family had any claim to the Bolsas. They told me their land would not come there ; to go and settle up on it. I pointed out to Cha's Brown what Guerrero had shown me as being the ranch, and the result was that Cha's Brown, Wm. H. Green, and myself took possession of the lands which is to-day called the "Bolsas," which extend from Lake Puerca to near the southern arm of the Lake Merced, and fenced it in, with the full consent of the de Haro family, they not claiming it as a portion of the ranch. Cha's Brown settled upon the southern Bolsa, or what was afterwards known as the Lake House property. Myself and W. H. Green built upon and occupied the Bolsa between the Laguna Puerca and the Laguna de la Merced. A few years later, having to make a sale to D. C. Broderick, I bought
682 Brown's interest to the Bolsa last mentioned. My family has lived upon that Bolsa since the year 1852. All the members of the de Haro family from 1852 to the present time have never said, or attempted to claim that land as a portion of the de Haro ranch, or the Laguna de la Merced, they all stating that their ranch adjoined that of their grandfather, José Sanchez. When the claim for the ranch was filed before the land commission, and the petition or map that was filed being indefinite, and not wishing to infringe upon the de Haro ranch, I had recourse to the family to give me the names of witnesses for the law agent to show what was their ranch. They referred me to their uncle, Francisco Sanchez, and to their aunt, Donna Paula Valencia, and their uncle, Candelario Valencia, they stating that those parties knew all about the ranch. I handed the names of those witnesses to the law agent of the U. S. land commission, and their testimony was taken and filed in the case. During the progress of the case before the land commission I have frequently heard the members of the family express disapprobation of Ramon de Zaldo, and his acts in reference
683 to the ranch. I was present one day when Leander Ransom was making his preliminary survey. I objected to his making any survey of the Bolsa, stating what the de Haro family had always said was their ranch, and told him that I thought I would be justified in bringing men and using force to prevent it, as the act of Congress creating the office of surveyor general prohibited the surveying of land for which a claim had been filed. He assured me that the survey he was then making was of no legal effect whatever ; that there was no design of locating the de Haro claim, but only to get an idea of the country, at the instance of some outside parties. A short time after I noticed that a survey was filed with the claim of half a league marked upon it. I heard all the different members of the de Haro family at that time express their disgust, saying that they did not want such sandy land ; that they wanted the land that belonged to their father, stating at the time that de Zaldo had no right to make any selection for them. At the instance of the de Haro family I spoke to Ramon de Zaldo about the Ransom survey ; about

684 the evil that he was doing to the de Haro family and others by attempting to make a selection for the heirs. He assured me confidentially that it was a speculation upon his part in selecting it and having a survey made, and that his location of that survey was of no legal effect whatever. Upon my representing that it might have something to do with fixing the location of the ranch, he said no, it would not; and I will tell you confidentially what to do. He then told me to look through the old Mexican archives in the surveyor general's office, and that I would there find a petition and map that had been made to the governor of California by Hermilliana Sanchez, the wife of Francisco de Haro, asking for an *augmento* to the de Haro ranch. De Zaldo said, Get a certified copy of the petition and map, and give it to the law agent to file in the case on behalf of the government. That map, said de Zaldo, has a house upon it showing where the de Haro family lived, stating further that that map and petition would show where the de Haro ranch was, and that his selection would have no effect whatever against
685 such testimony. I got from the archives a certified copy of the map and petition alluded to, and gave it to the law agent to introduce on behalf of the U. S. There being some objection made at the time to its introduction, Commissioner Felch remarked that he would hear no argument about it; that it was an important document, showing the location of the ranch, and that it was the duty of the claimants to have filed it themselves. Since that time, and within the last two years, hearing that some parties were still desirous of locating the ranch different from the decree of the land commission, I again had recourse to the de Haro family, and asked them whether they had any claim to those Bolsas. They said that their family had none, but that one Leandro Galindo, the brother of the Galindo from whom their father had purchased the ranch, had lived upon the Bolsa where the lake house had stood, and occupied those Bolsas; and that if I would look in the archives I ought to find some papers showing what rights Leandro Galindo had. I looked in the archives and found a paper, being a petition of Leandro Galindo to the prefect, dated July 31st, 1839.

686 Examination adjourned until Monday next, at 11 o'clock a.m.

SAN FRANCISCO, *Oct.* 13*th*, 1862.

Examination of A. A. Green resumed from the 9th inst.

Present: All the parties.

The witness continues his answer to ques. 3:

Some four years ago, I heard of James George, formerly a member of the legislature of this State, denouncing in a public manner Leander Ransom, Felix Argenti, and Ramon de Zaldo, stating that de Zaldo had been employed to make a false selection of the de Haro ranch, and Ransom surveyed the surplus without authority, Felix Argenti having been the party to purchase the warrants to cover such surplus lands; also stating that he would produce the contract signed by the three parties, by which they had mutually agreed to help each other.

Some time afterwards I asked Mr. George if he could obtain

687 a copy of the contract; he replied that he would, and did get me a copy a short time thereafter. I sent that copy to the editor of the Bulletin, one of the Kings, but it was not published. Some year afterwards a settler by the name of Smith came to see me about it, and he told me that he went to the Bulletin office, and obtained it. James George, at the time I allude to, said that he would have the parties to the agreement cited and brought into court; but as the decree had been rendered in the case, I did not think it worth while to pay any attention to the matter. When one Capt. Jarvis was murdered at the Mission Dolores, in 1850, Francisco Guerrero, Francisco Sanchez, and other members of the de Haro and Sanchez families, and myself, started in pursuit of the murderer, towards San José. In our route we halted at the Laguna San Bruno, and they pointed out to me on the west bank the ruins of the Galindo and de Haro's house. I have within the last few years, several times had interviews with de Zaldo, and have spoken to him about the school-land warrant fraud, to which he was a party. He never denied it; but, on the contrary, always assured me that the survey of Ransom would amount to nothing, that the land when con-
688 firmed must take in the land that he, Ransom, had sectionized, and upon which the warrants had been located.

(The answer is objected to by counsel for the U. S., and to every part thereof, as incompetent, irrelevant, and hearsay, and because the witness is incompetent to testify, being interested in the result of this suit.)

4. In your last answer, you state that you did not think it worth while to pay any attention to the matter of the paper from James George, because the decree had been rendered in the case. Did you mean because the decree was simply rendered, or because the terms of the decree were such as to relieve you from any further trouble in the matter?

(Objected to as leading and incompetent.)

Ans. I consulted with different counsel, and they all told me that if the decree read so as to include the part that had been actually occupied by Galindo and de Haro, that in their opinion, the
689 court, having already had the Ransom survey before it, paid no attention to it, as the evidence was conclusive as to its actual occupation. Before going to Mexico, some nine months ago, I again consulted legal opinion, Judge J. D. Creigh among others, who told me there was no necessity of putting in any further testimony, for the reason that the appeal had been dismissed by stipulation, and that the decree would stand.

(Answer objected to by counsel for U. S. as not responsive to the question, irrelevant, and incompetent.)

5. State if you have an interest in any lands within the exterior lines of the Ransom survey. If so, whether you hold under the de Haro grant, under any grant adverse to the de Haro grant, or under the laws of the United States?

Ans. I have no legal interest inside of the external lines of the Ransom survey, either under the de Haro or any other grant.

6. State if you speak the Spanish language fluently; if so, since when; whether married; if so, when; where, and to whom; when you arrived from Mexico, and how long you were absent.

690 Ans. I speak the Spanish language nearly as fluently as the English. I spoke it in the years 1847 and 1848, so much so that I was appointed by Col. Burton, of the U. S. army, to accompany Capt., now Major General, Halleck, of the U. S. army, as interpreter. I am married to Dolores Legaretta. I was married in 1848, in this place. I last arrived from Mexico, the 26th of September last, after an absence of six months.

Cross-examination.—Questions by counsel for the U. S.

Ques. 7. In answer to ques. 5, you say you have no legal interest inside of the external lines of the Ransom survey. What do you mean by legal interest?

Ans. I mean that there is no title-paper in existence which would show that I have any interest in the land above mentioned. I had some interest, but I have sold it all out.

8. Does not your family at present reside within the Ransom survey?

691 Ans. The house that my wife and children live in is not included within the external lines of that survey. My wife holds a small piece of property as sole trader in her own name, all of which lies to the north of the ocean house road. About one-fourth of the land that she claims would fall within the lines of the Ransom survey, and is claimed under the pre-emption laws of the U. S., or under the pueblo title.

9. Does your wife claim under a conveyance from any one; if so, whom?

Ans. She does; from Wm. H. Green and wife, Abigail Green, and myself.

10. Does your wife now reside at the same place at which you resided in 1852 and 1853?

Ans. She resides now where I resided in 1853.

11. Did not the half league, as located by Ransom by his survey, embrace the land, or a portion of it, which your wife now claims as a sole trader?

692 Ans. It embraced a portion of it. The most of the land that I claimed from 1853 down, lay to the north of the Laguna Puerca.

12. Did you not sell and convey to D. C. Broderick an undivided interest in a large tract extending from Lake Puerca, in a southerly direction, to a point near the lake house?

Ans. I remember making a conveyance to D. C. Broderick; but about two-thirds of the land therein conveyed lies to the north of the Laguna Puerca and outside of the Ransom survey, and all lying north of the north branch of the Laguna Merced.

13. What disposition have you made of your remaining interest in the tract specified in your deed to Broderick?

Ans. I sold all my right, title, and interest in that tract to Dan'l Breed, Wm. H. Green, and, I think, Charles Strong.

14. Have neither you nor your wife any interest directly or indirectly in the result of this suit?

693 (Objected to as irrelevant.)

Ans. I have no pecuniary interest; my wife's claim, as already stated, comes within the line of the Ransom survey, but is not included within the official survey; but I do feel an interest in seeing justice done to the de Haros, and to the first settlers in that vicinity.

15. In answer to ques. 3 you state that Guerrero, in behalf of the de Haro family, leased different portions of what is considered the de Haro ranch. State how you know that fact.

Ans. I have gone with Guerrero when he went to collect the rent. At a later period, after Guerrero's death, I went with Prudencio de Haro to collect rent from parties who had a milk ranch to the south of the Laguna Merced. I was also on the de Haro ranch with one Edmondson, who leased a portion of it in 1849 or 1850. He had his corral on the neck of land between the two lakes. This was during Guerrero's lifetime.

16. Specify the names of all persons who held such leases, and for what years; and describe the localities of the ground leased.

694 Ans. I remember distinctly, at present, only Edmondson's name; the rest were principally Mexicans and Chilenos. The years were from 1849, and including a portion of 1853. The Chilenos and Mexicans had two shanties and corrals about half a mile south of the south branch of the Laguna Merced, and pastured their cattle towards the Buriburi and Laguna Alta, as those were the best pasture lands. Edmondson had, as already stated, his corral; he had no house that I remember; he kept a vaquero with his cattle, wandering about where grass was best.

17. Are these the only leases that you knew of?

Ans. I have known Tissot, the husband of Natividad de Haro, who leased a house and land in the name of his wife. The land he leased was situated south of the south branch of the Laguna Merced. It would fall within both the half league surveyed by Ransom, and the official survey, and laid to the south of the last house built and

695 occupied on the ranch by de Haro, and also south of where the house stood that had been occupied by Gus Andrew, the son-in-law of de Haro, which last-named houses stood at or near the southeast point of the south branch of the Laguna Merced. The houses leased to the Chilenos and Mexicans are the houses marked "Old houses" on the map annexed to the doposition of Leander Ranson before the land commission.

18. About what year was it that Tissot made the lease that you speak of?

Ans. About 1854 and 1855.

19. Who made the lease to Edmondson, and in what year was that?

Ans. I suppose from Guerrero, in 1849 and 1850.

20. How far north did Guerrero say the ranch would extend?

Ans. He said it would extend a league from the Buriburi, and

pointed to a little gulch this side of the lake house where he supposed it would come.

696 21. How much land did he claim they were entitled to under the grant?

Ans. I know that he claimed a league north from the Buriburi.

22. In 1852, did not Josefa, the widow of Guerrero, and Rosalie, the wife of Chas. Brown, claim all the land within the exterior limits of the grant?

Ans. They did not; for I remember particularly of calling upon Mrs. Brown before going to locate. They did not claim any land to the north of the Laguna Merced.

23. When did you first hear that the heirs of de Haro claimed to be entitled, under the grant, to all the lands within the exterior limits, from Lake Puerca on the north, to the Buriburi line on the south?

Ans. I never heard from the heirs that they claimed it; I heard it from their counsel, B. S. Brooks, after the decree of the land commission.

24. In answer to ques. 3 you say that Chas. Brown, Wm. H.

697 Green, and yourself took possession of the lands called the Bolsas, extending from Lake Puerca to near the southern arm of Lake Merced, and fenced it in. About how much land did you thus take possession of and fence in?

Ans. Myself and brother took possession between us of some four hundred acres; Brown about as much more.

25. Under what title or claim of right?

Ans. Under that of prior possession, as the pre-emption laws of the United States had not been extended to California; other parties squatted upon us and reduced our possession to narrower limits.

26. Was it a joint operation between yourself, brother, and Brown, and were all the lands taken up and held in common between you for your joint benefit, or did each of you own a separate interest in the tracts you severally occupied?

Ans. I thought it was to be a mutual occupation of that particular piece of land; but a few years later, having occasion to sell a piece to Mr. Broderick, I had to buy Mr. Brown's squatter interest to the

698 northern portion of the tract.

27. Have you ever relinquished your interest in the land taken up by Brown between the two arms of Lake Merced; if so, when, and to whom?

Ans. I never relinquished anything there, and supposed I had a claim until the five years allowed under the limitation act had elapsed; since that I have always believed, and still continue to believe, that I have no shadow of claim whatever.

28. Did you or your brother pre-empt, or attempt to pre-empt, the said lands at any time; if so, when?

Ans. I remember of filing a claim for 160 acres of land at the land office in Benicia; a portion of it was within the northern portion of the Ransom survey; I don't know whether the greater portion or not, without reference to the papers. I located some school land warrants

which did not touch the half league surveyed by Ransom, nor the half league surved by Matthewson.

699 29. Did you or either of your brothers hold or claim any lands within the external boundaries of the tract as surveyed by Ransom, and south of the south branch of Lake Merced?

Ans. I held with one Couch some school land warrants located upon the land lying west and south of Lake Merced, but entirely west of the west line of the half league surveyed by Ransom, and about a mile northwesterly of the northwest line of the official survey; but those warrants were afterwards floated; Couch sold to me, and I floated them. I think I afterwards resold my possessory claim to the land to Couch.

30. Did not one of your brothers claim, and afterwards sell to a man named Prince, 160 acres of land south of the south line of the half league surveyed by Ransom, and near Thornton's place?

Ans. George M. Green located and sold 160 acres of land to one Prince; all of which land, and which is still occupied by said Prince, is to the west of the half league surveyed by Ransom, and is about one mile and three-quarters or two miles north of Thornton's tract.

700 31. In your answer to question 3, you state that all the members of the de Haro family, from 1852 to the present time, have never said or attempted to claim the Bolsas as a part of the de Haro ranch. Who do you mean by the members of the family?

Ans. Rosalie, the wife of Chas. Brown; Natividad, the wife of Tissot; Candelaria Carlota, and Prudencia de Haro. I meant more particularly the northern Bolsa.

32. Amongst those who you say did not claim the northern Bolsa, do you intend to include James Denniston, Josefa his wife, and Chas. Brown?

Ans. I never knew of them, by any notice to myself or members of my family, or by frequent conversations with them, that they claimed such interest.

33. Did you not, after the case was submitted to the land commission, furnish to the U. S. law agent a copy of the expediente in the case of Mrs. de Haro, for the purpose of having the law agent open the case for new proofs?

701 Ans. Ramon de Zaldo, who represented himself at that time to be the agent of some of the heirs, requested me to go to the archives and find such a document, to get a certified copy, and give it to the law agent, because, as he said, it would show the part that had been actually occupied by the de Haro family. I don't think I would have ever found the document had it not been for Ramon de Zaldo, as I was then farming, and paying no attention to the archives.

34. What did he say would be the effect upon the Ransom survey, from the putting in of the said document?

Ans. I am not positive that he said anything about the Ransom survey; but he did say, that the map in the expediente had a house upon it, to show where the actual residence of the family was.

35. Was it not in pursuance of de Zaldo's advice that you put the expediente in evidence?

Ans. It was acting upon his advice that I gave or sent it to the law agent.

702 36. Who was present besides yourself, at the time of the conversation between Ransom and yourself, at the time he was making the survey?

Ans. I was on horseback and met Mr. Ransom with his instrument; there was a flag-bearer and chainman some 100 feet away from us, but not near enough to hear our conversation.

37. Please repeat again what Ransom said on that occasion.

Ans. The sum and substance of it was, that it did not amount to much; that it must not be considered a survey of the ranch; that it was done for the convenience of private parties. Amongst other things he said was, that his authority for supposing that was a portion of the claim was, that José de la C. Sanchez had pointed it out to him.

38. In your friendship for the de Haro heirs, did you aid them with your counsel and advice, or otherwise, to procure a confirmation of their claim; or did you consult with the U. S. law agent as to the best means of defeating the claim entirely?

703 Ans. I remember, when pointing out to them the attempt that had been made by de Zaldo, Argenti, and Ransom, to deprive them of their land their father had bequeathed to them, that they denounced, in unmeasured terms, de Zaldo, and hoped that testimony would be taken showing where Galindo, their father, and brother-in-law had lived. I always knew the claim to be a genuine one, and never did anything to retard its confirmation; but the evidence that I caused to be put in, rather helped the claim than otherwise.

(Answer objected to by counsel for the U. S. as evasive and not responsive to the question.)

The witness continues his answer: I never consulted with the U. S. law agent about defeating the claim entirely that I remember of.

39. In answer to ques. 3 you say, referring to the Ransom survey, that you heard all the different members of the de Haro family at that time express their disgust, saying that they did not want such sandy land; that they wanted the land that belonged to their

704 father; that De Zaldo had no right to make any selection for them. State the time and occasion on which you heard Mrs. Brown make this remark.

Ans. I have been with my wife frequently visiting the de Haro family since the Ransom survey was made, and at most of these visits I have seen nearly all the members of the family, and I know that Mrs. Brown gave her assent to the declarations of her sisters in speaking of the Ransom survey. I cannot specify any more particularly than this, that it was after the survey.

40. Can you not specify some particular one occasion on which you heard these remarks?

Ans. I cannot give any dates, but I remember, when my comadre Mrs. Brown, my wife, and most of the family were congregated on a visit to Mrs. Valencias, they were discussing the matter and the

authority de Zaldo had from them for locating the ranch, denying that he had any, and denouncing him in general terms for locating the ranch.

705 41. Were the husbands of the heirs, or either of them present on that occasion? If so, which of them?

Ans. Some of them may have been in the house at the time, but I don't remember. Some of them were at the mission. Mrs. Valencia's house was at the mission.

42. You say that when you spoke to de Zaldo about the survey, he assured you confidentially that it was a speculation upon his part. What sort of a speculation did he say?

Ans. Being intimate with de Zaldo, I hinted to him about the document I had got from Mr. George, and spoke of it laughingly, saying that he had made a fine speculation with those land warrants. De Zaldo would shrug his shoulders, laugh, and never denied it.

43. Is this what you mean when you said in your former answer, that he assured you, confidentially, that it was a speculation upon his part?

Ans. From interviews of the kind described in my last answer.

706 44. Was it in the same conversation that he told you that Ransom's survey was of no legal effect whatever, and advised to procure a copy of the espediente in the case of Mrs. De Haro, to you be filed in the case?

Ans. The conversations with de Zaldo were numerous while the case was pending, and up to a year ago; but I cannot swear positively about the conversation that occurred at the time he told me to get that espediente.

45. At what particular place did the conversation occur, in which he said it was a speculation upon his part?

Ans. As before stated, I have alluded to it to him. The last time that I remember was a year and a half or two years ago at his house. What the particular conversation was I cannot remember. I remember only the sum and substance of it. We used formerly to ride in the stage together to the mission frequently.

46. Can you specify no one occasion or time, at which he assured you, confidentially, that it was a speculation on his part?

707 I remember of bringing the matter up late one night in his own house in San Mateo county; that was one of the occasions on which we talked about it, but I will not swear to the words used.

47. When he stated to you that Ransom's survey, locating the half league, was of no legal effect whatever, did he explain to you how it was he expected to make a speculation out of it?

Ans. He did not.

48. At the time of this conversation, or conversations, had you procured from George the copy of the contract of which you have spoken?

Ans. I had conversations both before and after having received said contract.

49. Did you tell de Galdo you had a copy of the contract, or show it to him?

Ans. I don't remember positively of telling him that I had it, or showing it to him; I remember alluding to it, and letting him know that I had knowledge of it.

708 50. If you thought he was practicing a fraud upon the heirs, why did you not show him the contract, and demand an explanation from him?

Ans. I was not and am not the keeper of the heirs, and consequently had no right to make any such demand.

51. What then was your motive for having the contract published in the Bulletin?

Ans. One motive was to expose the deputy surveyor general, and to let settlers have knowledge of those facts, so that they would not go on and make improvements upon land which had been surveyed as public land in violation of law on a part of the de Haro ranch; but the most powerful motive was, probably, that I was desirous of saving my own home from being robbed by ruthless speculators.

52. In what respect did you consider the heirs of de Haro were injured or defrauded by the location of the half league by Ransom's survey?

Ans. Because all the testimony before the land commission went to show that the ranch should join the Buriburi, and because
709 that portion of the ranch had been particularly occupied by them down to the time of the Ransom survey; it was a robbery to attempt to locate it at this end, because the land was much inferior; it was robbery to sectionize that land, in violation of the act of Congress, which provides that no land shall be sectionized as public land where a claim is pending. For these reasons the claimants have not been able to obtain their just rights to this day.

53. You say it was robbery to include in the survey the land at the north end of the tract; that the land at the south end was much the most valuable. Which was most valuable in 1853; and which would then have brought the most money, the half league surveyed by Ransom, or the half league located by the official survey?

Ans. The land south of the Laguna Merced was, at the time the Ransom survey was made, worth at that time and is to-day, for farming and stock purposes, five times as much as the land included in the Bolsas; squatter claims south of the county line, it is true, sold cheaper than that in the other portion, for the reason that
710 thinking men knew that that land would be covered by the de Haro claim.

54. You have not yet said which, in your opinion, would have sold for the most money in 1853.

Ans. In my opinion the ranch, as located by the official survey, would have sold for at least double the amount that it would have sold for as located by de Zaldo and Ransom.

Examination adjourned until to-morrow at 2 o'clock p. m.

SAN FRANCISCO, *Oct. 14th*, 1862.

Examination of A. A. Green resumed from yesterday.

Present: All the parties.

Ques. 55. By whom did the document which you obtained from George to be signed?

Ans. I do not remember by whom it was signed; I do not now
711 remember that it was signed by any one; when he delivered it to me he spoke of it as a great fraud, and told me that if I desired it he could arrange to have the original brought into court with the parties.

(The last part of the answer is objected to by counsel for U. S. as not responsive to the question; as incompetent hearsay and impertinent.)

56. Why have you stated that it was a contract, or copy of a contract, if it was not signed, and did not purport to be signed by any one? Please confine your answer to the question that is asked.

Ans. I have stated that it was a contract, because James George told me that he had seen such a contract, and because he offered to produce the original in court with the parties if required. And furthermore, because the copy which he gave me, although I cannot now remember, it is so long since I have seen it, whether it was signed or not; for all which reasons I believe that such a contract was made and did exist.

(Answer objected to by counsel for the U. S. as incompetent
712 hearsay, and not responsive to the question.)

57. Where was James George when you last heard of him?

Ans. I have read a newspaper report at the close of the last year, which stated that James George was at St. Louis; that is the last I heard of him.

58. What Smith was it who you say obtained the copy from the Bulletin office?

Ans. There are two brothers named Smith, that live south of the Laguna Merced; the name of one is George. I told him to go and get it; and I think he told me afterwards that he had got it. I tried to get it again, but could not obtain it.

(Answer objected to on the same ground as the last.)

59. In answer to ques. 3, you state that you have, within the last few years, several times had interviews with de Zaldo about the school land warrant fraud, to which you say he was a party;
713 that he never denied it, but, on the contrary, he always assured you that the survey of Ransom would amount to nothing; that the land, when confirmed, must take in the land that Ransom had sectionized on which the warrants had been located. Please specify when and where these conversations occurred. State each time, place, and occasion; and if you cannot state all, state all you can.

(Objected to, because the matter inquired of before has been fully answered before on cross-examination.)

Ans. My memory of dates is very bad, and consequently I cannot specify any particular day, week, or month when de Zaldo and myself conversed about this matter. My memory of places is good, and I do remember distinctly about having conversed with him about this subject in the streets of San Francisco, at his house in the mission Dolores, and afterwards at his house in San Mateo county, as described in one of my previous answers.

60. In which of these conversations was it that he made the statement referred to in the last question?

714 (Objected to, because the question does not sufficiently inform the witness, and will only lead to an answer which will be objected to by counsel for the U. S. as not responsive to the question.)

Ans. I cannot answer any more clearly touching this matter than I have done in my previous answer.

61. Do you intend to be understood as saying that you cannot specify any one particular occasion on which de Zaldo made the statement referred to?

Ans. I cannot, except as heretofore stated. If occasion means both time and place, I repeat again I cannot state positively the time. As to place or places, I can only reiterate what I have already stated, viz.: that such conversations or avowals were made by de Zaldo in the streets of San Francisco, at his house in the mission Dolores, and in his house in San Mateo county, and the counsel can choose from either of these places as to place.

62. At what particular place or places, in the streets of San Francisco, did these conversations occur?

715 Ans. I can remember the west side of Montgomery street, between Clay and Merchant, near to the corner of Clay. I can remember, upon another occasion, on the east side of Montgomery st., near the northeast corner of Clay and Montgomery. I can remember of another interview in Merchant st., between Kearney and Montgomery, upon the south side of Merchant st. That is about all the places that I now remember in the streets of the city of San Francisco.

63. What enables you to remember the particular conversation which occurred at these particular places?

Ans. Because he was a party to a fraud, by which the government was getting robbed; by which the claimants in this case were getting robbed; by which settlers, all over that ranch, were robbed, and are robbed, and because he, being the principal party, making a false location. I knew that he could assist me more than any other person in rectifying the fraud, as I regarded him a man with an easy conscience; and besides, I was aware that he knew more

716 about the old Spanish archives, and had had, up to that period, more to do with them than any other man in the State; and believing, for all these reasons, that he could rectify the error that had been committed, I, therefore, remember the nature of the conversations.

64. Please explain in what manner the government was being rob-

bed in selling lands to settlers, which lands, you say, were not liable to entry or sale.

(Objected to, as being entirely irrelevant and only intended to encumber the record.)

Ans. The government was robbed by having this case delayed, at its expense, before this court; and as this court had been imposed upon by a false location—maps, that do not specify old ruins where they occur upon the ground; worse than all, the settlers upon that ranch and its vicinity have been robbed of that good faith that all good citizens should have in their courts and governments.

65. Can you state about how many years ago it has been
717 since the first and last of these conversations occurred?

Ans. The first occurred prior to introducing in the U. S. land commission a copy of the expediente of Hermeliana Sanchez, the wife of Francisco de Haro, and the last about or within two years of the present time.

66. Did the last conversation referred to occur at de Zaldo's house in San Mateo county?

Ans. To the best of my recollection it did.

67. Was any one else besides de Zaldo and yourself present at any one or more of these conversations; if so, which and who?

Ans. I don't remember of ever broaching such conversation before any third party, and consequently don't remember of any third party being present.

68. Were you present when Ransom sectionized any part of the lands on the southern end of the ranch?

Ans. I was not.

718 69. How do you know then that Ransom did sectionize it?

Ans. I only know from having seen the plats of U. S. surveys, and from him being the U. S. deputy surveyor general, and making the survey of the de Haro ranch, but I don't mean to positively assert that he run the section lines.

70. Do any of your brothers reside or claim to own lands within the half league, as located by the Ransom survey, claiming title under pre-emption claims, school land warrants, or other titles adverse to the de Haro heirs?

Ans. The records will answer this question more definitely than I can, but I will add, that I have two brothers, Wm. H. and Dan'l Green, with whom, unfortunately, I have no sympathy or business relations, who have some land that is included in the Ransom survey of the half league.

71. Did you ever sell to a man named Wetmore a piece of land south of the south arm of Lake Merced, and near the place
719 marked "old houses" on one of Ransom's maps?

(Objected to as irrelevant, unless, if such sale were made, it was made under the de Haro title.)

Ans. I think I did give a quitclaim deed to Wetmore for some of that land about the place named. I have frequently given quitclaims to oblige parties who have imagined I had some claim where I had none.

72. Did you never claim or pretend to claim the land sold to Wetmore?

Ans. I do not remember of ever having recorded a claim for that piece of land, or of any person selling or giving me a claim to it.

73. Did you not claim it by virtue of prior possession, or in any other way whatever?

(The last two questions objected to on the same ground as the last.)

Ans. I do not remember of claiming it by prior possession, but I had claims filed, and school land warrants located upon lands
720 situated southwest of the Lake House, and west of the half league survey, but it did not embrace the Wetmore tract.

74. Did not Wetmore pay you a sum of money as a consideration for said conveyance? If so, how much?

Ans. I don't remember of Wetmore paying me one dollar. He may have had some small claim against me, but I don't remember.

75. Does not your brother Benjamin Green now occupy under a pre-emption claim a tract of land included in the official survey, and outside of Ransom's survey of the half league?

(Objected to as irrelevant, because the occupation of any settler on the lands in controversy, except those who are represented through the U. S. att'y, could have no relation to the issues in controversy in this cause.)

Ans. My brother Ben has, unfortunately for him, nearly or about all his land included in the official survey. I am not certain
721 how he claims it, but I think under government title.

Direct examination resumed.—Questions by counsel for int. Mahony.

Ques. 76. Do you know the location on the ground of the old house of Galindo, and the house of de Haro, and if so, look at the map of the initiatory survey, filed July 12th, 1854, and state their situation, if they are not already shown upon the map?

Ans. The former residence of Galindo and Francisco de Haro, as pointed out to me by Francisco Sanchez and others, and I saw the ruins is on the southwest corner of the Laguna San Bruno. They were distinct, as late as 1855. The other house of de Haro was at the south end of Lake Merced.

Deposition closed.

A. A. GREEN.

Subscribed and sworn to this 14th day of October, A. D. 1862, before me.

W. H. CHEVERS.
U. S. Com'r.

Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk.*

722 *Deposition of Edward Conway on part of intervenor Mahony.*

In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* JOSEFA DE HARO *et al.* } In land cases, dist. court, No. 380—Land com'r. No. 102.

Be it remembered, that on this third day of November, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States, for the districts of California, to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes, depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared Edward Conway, a witness produced in behalf of the intervenor Mahony in the above-entitled cause, now pending in said court under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows.

Present: S. A. Sharp esq., for intervenor Mahony, and W. H. Sharp, esq., U. S. att'y, for the U. S.

723 *Questions in behalf of the int. Mahony.*

Question 1st. Are you the same Edward Conway who has heretofore given testimony in this case?

Ans. I am.

2. In the deposition of John C. Hays, taken October 1st, 1862, on the part of the United States, he stated, in answer to ques. 11, that Orestimba rancho, and the Las Putas rancho, were surveyed in a certain manner. In answer to ques. 12, he says the Honcut and Flugge ranchos were surveyed in the same manner, and in answer to ques. 14, he says the rancho Rio de los Americanos was also surveyed in the same manner. State what you find in the records of the surveyor general's office concerning the surveys of those ranchos?

Ans. I find on record a preliminary survey of the Orestimba, which was not approved; the final survey was made of this rancho under Mandeville's administration in August 1859, the townships bordering thereon were subdivided in Sept., Oct., and Nov., 1859. The

724 final surveys are based upon the final decree of the supreme court or district court, as the case may be, accompanied by a certificate that the appeal has been finally dismissed.

In the Las Putas I find a preliminary survey, approved Oct. 12th, 1863; the final survey of that rancho, was made under the administration of Col. Hays in May 1857; the township lines bordering thereon were sectionized in Nov., 1858, and Jan'y, 1859, under Mr Mandeville, and the remainder are now being sectionized under Mr Beale.

In the Honcut, I find no plat of the preliminary survey on record.

The preliminary survey book shows, that instructions were issued to Mr. R. B. Hays, and that the survey was returned, but no plat has been on file since I have had charge of the records. Two fractional townships adjoining this rancho were surveyed from December, 1854, to January, 1856, leaving a proportion thereof, marked Honcut rancho. These surveys were executed under Col. Hays, Mr. Mandeville made the final survey in Sept., 1857.

The Flugge or Boga ranch was surveyed under Mr. King in 1852; the lands adjoining were not sectionized. From Dec. 7th,
725 1854, to Jan'y 3d, 1856, townships 17, 18, and 19 north, range 3 east, under Col. Hays were partially sectionized. The final survey of this ranch was made under Mr. Mandeville in June, 1859, covering in part some of the subdivisions above mentioned.

The preliminary survey of the Rio de los Americanos was made and approved Dec. 17th, 1855; one adjoining township was surveyed Dec., 1855, under Col. Hays. The final survey was made in May, 1857. This survey was approved by the district court, and did not change the lines of the preliminary survey.

3. The preliminary survey of the rancho Laguna de la Merced showed the lines of the exterior boundaries of the tract, and a separate survey of a half-league tract within those exterior boundaries. Portions of the land between the half-league tract and the exterior lines were sectionized by the surveyor general. State whether the preliminary surveys you have mentioned resemble in those particulars that of the Laguna de la Merced?

726 Ans. They do not. There is no case similar in those particulars to that of the Laguna de la Merced, on file in the surveyor general's office. I mean that there is no survey on file in the surveyor general's office, with exterior lines returned by the deputy, as lines claimed by the grantee, within which sub-divisions of townships had been made by the office.

Cross-examination.—Questions by counsel for the United States.

Ques. 4. In your answer to ques. 2 you mention certain surveys as having been made of certain ranchos therein named. Were they all the surveys that had been made by the surveyor general of those ranchos? If not, name the others and state what was done with them.

Ans. The counsel on both sides handed me a written memorandum of the facts they wished searched for in the records of the surveyor general's office. There being over 3,000 plats of survey on file, executed during the past ten years, it is impossible for me to
727 answer this question without making particular search. Some of the ranchos I have mentioned have been surveyed once or twice more than I have stated, but I could not state the particulars unless I made a search.

5. Do you know whether there are not some of the 3,000 surveys in the surveyor general's office that are not like the case of the Laguna de la Merced, or have you examined every record in the office, to see if they are unlike it?

Ans. Every record plat of surveys I have seen, and do not know of one similar to that of the preliminary survey of the Laguna de la Merced.

6. In this case there is a map showing the exterior lines of what is supposed to be the diseño, containing between one and two leagues of land. Is that the land that the surveyor marked as being claimed by the claimants?

Ans. I so understood his field-notes.

7. The land within the half league made by Ransom, within the exterior limits mentioned in the last question, has never been
728 sectionized, has it?

Ans. It has not.

8. Do you know of any case where the lands, or any part of them, as shown by the original diseño, have been surveyed or sectionized after a preliminary survey, before the final survey was made?

Ans. Outside of the exterior lines, I do; inside of them I do not. It appeared to be the practice under Col. Hays, in some cases.

9. Do you know whether Mr. Mandeville made another survey of the Rio de los Americanos, differing from the preliminary survey, and what became of that survey?

Ans. Mr. Mandeville made another survey different from the one executed in May, 1857, under express orders from the department at Washington, and that survey was rejected by the district court, and the former one adopted.

10. Do you know whether Mr. Mandeville gave the surveyor,
729 who surveyed the Laguna de la Merced, any verbal instructions how to make that survey, or do you know whether the surveyor and Mr. Mandeville had any interviews after the survey was commenced before it was finally returned to the surveyor general's office?

(Objected to as irrelevant.)

Ans. I do not.

11. Do you know whether any other person, in the surveyor general's office, did?

(Same objection as last.)

Ans. Not to my knowledge; if so, I cannot remember it. I reported on the case as "examiner."

12. At whose instance and request was the survey under Mr. Mandeville made?

Ans. I do not know. The final papers were filed and instructions issued under Mr. Mandeville's orders, as in other cases.

730 Examination adjourned until to-morrow at 2 o'clock p. m.

SAN FRANCISCO, *November 4th*, 1862.

Examination of E. Conway resumed from yesterday.

Present, all the parties.

Ques. 13. Do you know of any case except the Laguna de la Merded, in which, before a final survey, lands have been sectionized and surveyed as public lands, within the limits of the diseño?

Ans. Yes, sir; I remember the Saujon de Santa Rita, under the administration of Col. Hays. That was sectionized before any survey at all was made. The question I cannot answer further without an examination.

14. Have you examined the records of the surveyer general's office to see if there were any preliminary surveys of the following ranchos, to wit, Cañada Raimundo, Corte Madera, Buriburi, La Visi-
731 tacion, Miramontes, Cañada Verde, Shoquel, and augmentation of it, Santa Anna, *Y quin saba Tepusquet*, Sisquol, Tinaquaic, Los Alamos, Las Ojitas, Piojo Cienega, De Las Paicines, Chimiles, Huero Huero, and Cañada de los Penas? And state whether or not any of the lands embraced within the diseños in said cases, or any of them, were sectionized as public lands before the final surveys.

Ans. The only preliminary surveys on file in the surveyor general's office in the above cases are the Cañada Raimundo, not approved; the Corte Madera, approved Jan'y 30th, 1855, and Laguna de la Merced, approved Sept. 22d, 1853. The sub-divisions of the townships adjoining these ranchos was executed from June 10th to Oct. 1st, 1854. The final survey of the Cañada Raimundo was made in November, 1856; that of Corte Madera in July, 1857; Buriburi and La Visitacion in June, 1858, and the Laguna de la Merced, in July, 1858.

15. Do you know whether township 5 south, range 4 west, Monte Diablo meridian, was surveyed and sectionized; if so, whether the said lands, or any part of them, are embraced within the ex-
732 terior boundaries of the rancho Cañada Raimundo, as defined in the grant and diseño?

Ans. The sub-division plat of this township is on file in the surveyor general's office. I have never examined it with reference to the diseño nor grant.

16. Was said township surveyed and sectionized, and the plat approved, before the final survey of the rancho Cañada Raimundo?

Ans. It was.

17. Were not lands surveyed and sectionized contiguous to each of the ranchos to which your attention has been called, and the sub-division plats approved before the said ranchos were finally surveyed?

Ans. In the cases of the Cañada Raimundo, Corte Madera, Buriburi, Laguna de la Merced, and La Visitacion, they were. In all the remainder they were not, with the exception of the cases of Miramontes and Cañada Verde. In these cases the arroyo was the boundary, the Cañada Verde lying to the south of it. The
733 portion of public lands on the north of the arroyo remaining after the final survey of the Miramontes was sub-divided, previous to the final survey in the Cañada Verde, the former being executed in February, 1860, and the latter in May and June following.

18. Do you know whether or not the lands, which were subdivided contiguous to the ranchos Corte Madera, Buriburi, La Visitacion, and Cañada Verde, or any of them, were within the external boundaries of the grants or diseños?

Ans. I could not answer without making examination.

Deposition closed.

EDWARD CONWAY.

Subscribed and sworn to this 4th day of Nov., 1862, before me.
W. H. CHEVERS, *U. S. Com.*

Endorsed : Filed January 31, 1863.
W. H. CHEVERS, *Clerk.*

734 *Exhibit Hopkins No. 1, for claimant.*

The concession made to the citizen José Ant'o Galindo of the land named Laguna de la Merced, granted on the 23d of September, 1835, is approved subject to the conditions that may be imposed in relation to its pertaining to the ejidos of the Pueblo of Dolores.

The above is a correct translation of an extract from the record of the proceedings of the territorial deputation on the 26th of September, 1835, as the same is found vol. II of "legislative records," page 288, on file in the office of the sur. general.

San Francisco, Sept. 24th, 1862.

R. C. HOPKINS.

SAN FRANCISCO, *Sept.* 25, '62.

It is hereby stipulated and agreed, that the foregoing be admitted as evidence without further proof, as Exhibit Hopkins No. 1, subject to all other legal exceptions.

WM. H. SHARP, *Dist. Att'y.*
By J. B. CROCKETT.

Endorsed : Filed January 31, 1863.
W. H. CHEVERS, *Clerk.*

735

736 *Stipulation admitting Exhibit Gardner No. 1, and map attached thereto.*

U. S. district court.

THE UNITED STATES *vs.* JOSEFA DE HARO *et al.* } No. 380.

SAN FRANCISCO, *Sept.* 20, 1862.

It is hereby stipulated and agreed, that survey 1960 made for John Middleton, and the location of school warrants for the said Middleton can be proved by Jas. J. Gardner, in the manner and at the dates shown by annexed exhibit, marked Exhibit Gardner No. 1, and that said exhibit may be offered in evidence, subject to all legal objections, except those provided for by this stipulation.

WM. H. SHARP, *Dist. Att'y.*,
By J. B. CROCKETT.
McDOUGAL & SHARP,
Att'ys for Mahoney.,
By JNO. B. WILLIAMS.

Endorsed : Filed January 31, 1863.
W. H. CHEVERS, *Clerk.*

(Here follows map, p. 736.)

737 *Stipulation admitting proof of diseños.*

U. S. district court.

THE UNITED STATES
vs.
JOSEFA DE HARO *et al.* } No. 380.

SAN FRANCISCO, *Sept.* 18, 1862.

It is hereby stipulated and agreed, that it can be proved by R. C. Hopkins, keeper of the Mexican archives in custody of the U. S. surveyor general for Cal'a, that the diseño attached to the espediente in this case, a copy of which was filed by the U. S. law agent in the cause, June 26, 1855, is in the handwriting of Francisco de Haro; and that the diseño produced from the custody of the claimants is in the handwriting of Francisco Guerrero.

WM. H. SHARP, *Dist. Att'y.*,
By J. B. CROCKETT.
McDOUGALL & SHARP,
Att'ys for Mahoney.,
By JNO. B. WILLIAMS.

Endorsed: Filed January 31, 1863.
W. H. CHEVERS, *Clerk.*

738 *Stipulation admitting documentary evidence.*

To the Prefect of the Territory:

Leandro Galindo, a resident of the jurisdiction of San Francisco, before your honor with due respect presents himself and says: That for three years he has occupied with his stock the place named las Bolsas de la Laguna de la Merced, and this with the permission of the then comisionado Don Gumecindo Flores, and at the same time, with the knowledge of the señor comandante general, these circumstances, together with that of my having made improvements upon said place, prompt me to represent to your honor my personal feelings, since Don Francisco de Haro, having purchased from José Antonio Galindo the place of the Laguna de San Bruno, with all the land belonging to the Laguna Alta as far as the point where it terminates with the angle (rincon) of the Laguna de la Merced—that is, on the part opposite to that which I occupy, and this being the case, as it is with what motive or cause does Don Francisco de Haro desire to withdraw himself upon my place, saying to me that all of it belongs to him, and that José Antonio Galindo did not know what he
739 sold, when I am informed by truthful persons, who assisted at the measurement of his land, that it did not extend to the place indicated.

Wherefore, sir, not to molest you further, I will say, that if the Sor. Haro is entitled to a piece of land I am also entitled to the same, since he does not exceed me in right.

Wherefore I earnestly pray you to accede to my petition, for while I shall ever be grateful.

Santa Clara, July 21st, 1839.

LEANDRO GALINDO.

Order of reference.

SANTA CLARA, *July 29th*, 1839.

Let the justice of the peace of San Francisco report upon this petition.

CASTRO.

The foregoing is a correct translation of the petition of Leandro Galindo, together with the marginal order on the same, as found on file in the archives of the office of the U. S. sur. genl.

San Francisco, Sept. 30th, 1862.

R. C. HOPKINS,
Keeper of Archives.

740 U. S. district court.

THE UNITED STATES *vs.* JOSEFA DE HARO *et al.* } No. 380.

SAN FRANCISCO, *Jan'y* 8, 1863.

It is hereby stipulated and agreed by and between the respective parties, by their attorneys, that the foregoing translation, certified by R. C. Hopkins, Sept. 30, 1862, shall be admitted as evidence herein in lieu of the original; and that the original papers in cases 101, (Buriburi,) 6, (San Miguel,) 82, (San Pedro,) 285, (Cañada de Guadalupe,) 218, (Pasaje del Arroyo,) and 427, (City of San Francisco,) be admitted in evidence herein so far as relevant; subject to all legal objections as to relevancy.

WM. H. SHARP,
Dist. Att'y.,
By J. B. CROCKETT,
Of Counsel.

Endorsed: Filed January 31, 1863.

W. H. CHEVERS, *Clerk*,

741 *Deposition of A. W. Rice, on part of United States.*

In the district court of the United States for the northern district of California.

THE UNITED STATES *vs.* JOSEFA DE HARO *et al.* } In land cases, dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this 25th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court

of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared A. W. Rice, a witness produced in behalf of the United States in the above cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows :

Present: W. H. Sharp, U. S. att'y, for the U. S., and S. A. Sharp, esq., for intervenor Mahoney and claimant.

Questions in behalf of the United States.

742 Question 1st. What is your name, age, and place of residence?

Ans. My name is A. W. Rice, my age is 39 years, I reside in San Mateo county.

2. Do you know the rancho Laguna de la Merced, if so, how long have you known it?

Ans. I do. I have known it since 1853.

3. Do you reside near to it, if so, how long have you lived there?

Ans. I reside about three miles from the Laguna de la Merced. I have lived there since 1853.

4. Examine the map now shown to you, marked Exhibit Ransom, A. No. 1., and state whether or not in 1853 you were acquainted with the lands therein represented?

Ans. I was.

5. How far did you reside in 1853 from the house known as the "Abbey?"

743 Ans. About one-quarter of mile north of it, on a corner of the Ridley ranch, and I have lived there ever since.

6. In 1853 which in your opinion was the most valuable and at that time would have sold for the most money, the lands embraced in the pink lines on said map or the lands embraced in the yellow lines?

Ans. That in the pink lines.

7. Which in your opinion would sell now for the most money?

Ans. The same—that in the pink lines.

8. Have you recently purchased any land near the easterly line of the lands enclosed in pink, if so, where? and what did you pay for it?

Ans. In 1853 I purchased some land where I now live near the Abbey, on the Ridley ranch, I paid $100 an acre for it.

(The foregoing testimony is objected to as incompetent and irrelevant.)

Cross-examination.—Questions by counsel for claimant and int. Mahoney.

744 Ques. 9. In answer to ques. 6, you state that in 1853, in your opinion, the lands embraced in the pink lines were more

valuable than those embraced in the yellow lines. State what reasons you have for that opinion?

Ans. They lay more level and are nearer the city. They are more valuable by reason of being level, because they are more easily worked.

10. Which were the most valuable for agricultural and grazing purposes in 1853, the land shown on the map lying north of the county line or that lying south of the county line, without regard to its proximity to the city?

Ans. For the biggest crop I should prefer the land south of the county line, for early crops I should prefer the other.

11. How much land do you own about where you live?

Ans. Ten acres.

745 Direct examination resumed.

Questions by counsel for the U. S.

Ques. 12. In 1853, was or not the Lake House a place of great resort, and were not the lands around the Lake House fenced up and under cultivation?

(Objected to as irrelevant and incompetent.)

Ans. The Lake House was a place of great resort. I believe the lands around the Lake House were not fenced up in 1853.

Cross-examination resumed.—Questions by the counsel for int. Mahoney and claimant.

Ques. 13. How large a house was the lake house in 1853, and was there not subsequently, after 1853, a larger house erected and improvements made?

Ans. In 1853, I think it was a one-story house in which they cooked and had a bar; some would call it a shanty; some a house; afterwards there was a larger house put up, and quite a large tract fenced in; this was in 1854 or 1855.

746 Deposition closed.

A. W. RICE.

Subscribed and sworn to this 25th day of September, A. D. 1862, before me.

W. H. CHEVERS,
U. S. Com.

Endorsed: Filed Feb'y 5th, 1863.

W. H. CHEVERS, *Clerk.*

Deposition of W. O. Andrews on part of U. S.

In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* JOSEFA DE HARO *et al.* } In land cases, district court No. 380.—Land com. No. 102.

Be it remembered that, on this 25th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United
747 States, pursuant to the acts of Congress in that behalf, personally appeared William O. Andrews, a witness produced in behalf of the United States in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows:

Present: W. H. Sharp, U. S. att'y, for the U. S., and S. A. Sharp, esq., for int. Mahoney and claimant.

Questions in behalf of the United States.

Question 1st. What is your name, age, and place of residence?

Ans. My name is William O. Andrews; my age is 43 years; I reside in the city of San Francisco.

2. Where did you reside in the year 1853, and the year before, and after that?

Ans. In San Francisco.

3. Were you acquainted in the year 1853 with the rancho Laguna de la Merced, known as the de Haro ranch? If so, state how you became acquainted with it, and your means of knowledge re-
748 specting it.

Ans. Early in 1850, on my arrival here, I spent a few week on the ranch in company with my brother, who married into the de Haro family. A few weeks after that my brother died, and up to 1852 or 1853 I saw but little of the ranch, except occasionally riding over it. In 1853 and 1854 my brother's family were there occasionally a few weeks, and I visited them.

4. Examine the map now shown to you, marked Exhibit Ransom, No. 1; and state whether, in your opinion, the lands included in the pink lines, or those included in the yellow lines, in 1853, would have sold for the most money in the market.

(Objected to as incompetent and irrelevant.)

Ans. I would have given a great deal more for that in the pink lines than that in the yellow. I should judge it would have sold for more.

749 5. What, in your opinion, are the relative values of the two tracts at present, without regard to any improvements?

(Same objection as the last.)

Ans. I have not been on there for more than two years, and I know of no sales in that vicinity on which to base an opinion. My opinion is that the land included in the pink lines, being nearer to the city and more level, is worth considerably more.

6. If the land included in the pink lines had been subdivided into small parcels in 1853, what, in your opinion, would it at that time have commanded per acre at public auction, averaging the whole tract?

(Same objection as last.)

Ans. My opinion is that it would have sold for fifty dollars an acre.

7. In your opinion could or not as large a price at that time have been obtained for any other similar quantity of land located
750 in the same shape within the external limits of the de Haro ranch?

(Same objection as last.)

Ans. I should say not.

8. Have you had any experience recently in dealing in real estate in the neighborhood of the mission Dolores and south of the mission?

Ans. I have not sold much in that direction from the mission since 1853, 1854, and 1855, when I had a number of acres of the Buriburi rancho to sell, and did sell them. Within a few months I have sold land east of the mission.

9. From your knowledge of the value of lands, what in your opinion is the present cash value per acre of the land included within the small red lines on the map you have referred to?

(Same objection as last.)

Ans. Without any cloud upon the title I should think it to be worth about $75 per acre.

751 10. If you had owned in 1853 the half league to which the heirs of de Haro were entitled, and had been authorized to locate it a half league wide from east to west, and a league in length from north to south, how would you have located it within the exterior limits as shown by the map you have referred to?

(Same objection as last, and because it cannot be proved what the choice of the heirs in 1853 would have been had they been allowed the selection.)

Ans. I am not aware that I could have made a better location than that shown by the pink lines.

11. Was not the lake house in 1853 a place of great resort, and had or not this fact any influence in attracting attention to the lands in the neighborhood of it?

Ans. It was a place of great resort. I should of course suppose that it had influence in attracting attention to the lands in its neighborhood.

Cross-examination waived.

752 Deposition closed.

W. O. ANDREWS.

Subscribed and sworn to this 25th day of September, A. D. 1862, before me.

W. H. CHEVERS, *U. S. Comm'r.*

Endorsed: Filed Feb'y 5th, 1863.

W. H. CHEVERS, *Clerk.*

Deposition of Justus Bepler on part of the United States.

In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* JOSEFA DE HARO *et al.* } In land cases—dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this 25th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United
753 States, pursuant to the acts of Congress in that behalf, personally appeared Justus Bepler, a witness produced in behalf of the United States in the above-entitled cause now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows.

Present: W. H. Sharp, U. S. att'y, for the U. S.; and S. A. Sharp, esq., for intervenor Mahoney and claimant.

Questions in behalf of the United States.

Question 1st. What is your name, age, and place of residence?

Ans. My name is Justus Bepler; my age is 35 years; I reside at the Abbey, San Mateo county.

2. Do you know the place called Laguna de la Merced, or the de Haro ranch? If so, how long have you known it?

Ans. I do know it. I have known it about five or six years—it may be longer.

3. Were you, or not, in 1853 acquainted with the lands in the neighborhood of the lake house, and also with the lands south of the lake house, down to the line of the Buriburi ranch?

754 Ans. I was.

4. Were you, or not, at the same time acquainted with the lands lying north of the lake house, up to Lake Puerca?

Ans. Not so much as with the southern part. I know them now.

5. Examine the map now shown you marked Exhibit Ransom A, No. 1, and state whether in 1853 the lands included in the pink lines, or those included in the yellow lines, would have sold for the most money, and commanded the best price, in the condition that the lands then were.

Ans. My opinion is that the lands in the pink lines were worth the most, because it was good agricultural land, and nearer to the city than the other. I think that now the lands in the yellow lines would sell for the most.

6. Have you recently bought any land on the Noe ranch, near to the eastern line of the de Haro ranch? If so, where is it situated, and what price did you pay?

755 Ans. I have. It is situated about 1,200 or 1,500 feet northwest from the Abbey. I paid an average of $150 an acre.

7. How does the land included in the yellow lines compare in value with the land outside of it, represented by the buff shading?

Ans. It is of about the same value.

(The foregoing testimony is objected to, as incompetent and irrelevant.)

Cross-examination.— Questions by counsel for int. Mahoney and claimant.

Ques. 8. Where did you live in 1853?

Ans. In the city of San Francisco.

9. When did you move from San Francisco?

Ans. In 1860, I moved to the Abbey.

10. What was your business in San Francisco from 1853 to 1860?

Ans. I was in the brewery business, manufacturing acids and distilled water.

756 11. How did you become acquainted, in 1853, with the land in the neighborhood of the lake house, and from the lake house to the Buriburi rancho?

Ans. I was carrying on business at the Abbey, and did so from August, 1853, and had to, frequently—once or twice a week—go out there and carry goods.

12. How did you become acquainted in 1853 with the value of the land west and southwest of the Abbey; did your business call you in that direction, or did you buy or sell any land in that vicinity?

Ans. I went in that direction often, and I heard of the value of the land from settlers on it, and visitors at the Abbey.

13. Look on the map before referred to, and state whereabouts the settlers you speak of were located.

Ans. A man named Peter Smith had a place just below the two houses near the southern line of the survey shown by pink

757 lines. I knew several others by sight, but don't know their names or locations.

14. In your answer to ques. 5, you state your opinion to be that the lands in the pink lines were worth the most, because it was good agricultural land and nearer to the city than the other. Is not the land enclosed in the yellow lines good agricultural land, and was it not in 1853?

Ans. It is, and was in 1853.

15. In 1853, was any land cultivated by settlers north of the county line?

Ans. I don't recollect of any.

16. How much land did you buy at the abbey, for which you paid an average of $150 an acre?

Ans. Twenty-four acres; I bought it three months ago.

17. How near does the San José railroad run to your place?

Ans. It runs right by it.

18. How near to your place do the two county roads run?

758 Ans. My land lies between the county road and the railroad.

19. Is not your place most valuable from its situation as a business stand?

Ans. If the railroad stops there it will be valuable on that account; for the purpose I use it now it is no more valuable than any other land. The name of my house is the Abbey hotel.

Deposition closed.

JUSTUS BEPLER.

Subscribed and sworn to this 25th day of September, A. D. 1862, before me.

W. H. CHEVERS,
U. S. Com'r.

Endorsed: Feb'ry 5th, 1863.

W. H. CHEVERS, *Clerk.*

Deposition of A. Marius Chapelle on part of the United States.

759 In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* JOSEFA DE HARO *et al.* } In land cases—dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this 26th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner, duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared A. Marius Chapelle, a witness produced in behalf of the United States in the above-entitled cause now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows:

Present: W. H. Sharp, U. S. att'y, for the U. S.; and S. A. Sharp, esq., for intervenor Mahoney and claimant.

760 *Questions in behalf of the United States.*

Question 1st. What is your name, age, and place of residence?

Ans. My name is A. Marius Chapelle; my age is 49 years; I reside in San Francisco.

2. How long have you resided in San Francisco?

Ans. Ever since 1849.

3. What opportunities have you had during your residence here to become acquainted with the value of real estate in this vicinity?

Ans. I have been in the real estate business ever since 1852, and I am the owner of some land this side of the Ocean house, in section 24.

4. Were you in 1853, and are you now, acquainted with the rancho Laguna de la Merced, generally known as the de Haro ranch?

Ans. I was not in 1853, but I am now; I was not acquainted in the year 1853 with the boundaries of the rancho, but
761 I was acquainted with the lands in the vicinity of the lake house.

5. Examine the map now shown to you, marked Exhibit Ransom A, No. 1, and state whether or not, in 1853, you were acquainted with the lands included in the pink lines.

Ans. I was.

6. Supposing the said map to represent the external boundaries of the de Haro ranch, state whether or not you are now acquainted with the lands represented by the buff coloring on the said map.

Ans. I am, with the general character of the land.

7. From your knowledge of the said lands, and of the prices of real estate in that vicinity in 1853, state whether or not the lands included in the pink lines were more or less valuable in July, 1853, or about that period, than the lands included in the yellow lines.

(Objected to as incompetent and irrelevant, because the
762 relative value of the lands in 1853 cannot bind the election of claimants if they ever possessed it.)

Ans. I believe that the lands in the pink lines were more valuable in 1853, and are so now, and will always be.

8. State your reasons for that opinion.

Ans. In the first place, a large part of it is inside of the county line of San Francisco county; in the second place, it is nearer the city; and in the third place, I believe it is not so windy there as it is in the yellow lines. The land inside of the county line could be sold in fifty-vara lots, while in the yellow line it could only be sold by acres.

9. If the land included in the pink line had been subdivided in 1853, into five or ten acre lots, and sold at auction in the summer or fall of that year, what price, in your opinion, would it have brought per acre, supposing the title to have been perfect?

(Same objection as the last, and because it is purely hypothetical.)

763 Ans. I, myself, had an auction of real estate in 1853; I think the land would have brought from $100 to $200 an acre.

10. Supposing the pink lines to represent a tract a league in length from north to south, and half a league in width from east to west, state whether or not, in your opinion, a tract of that shape and size could in 1853 have been more advantageously located within the exterior limits shown by said map, than as the same is located as by the pink lines.

(Objected to as leading, because the opinion of the witness cannot

determine what the election of claimant would have been in 1853, had they exercised any right of election, nor can it determine what the opinion of de Zaldo, Ransom and Argenti was at that time.)

Examination adjourned until Monday next, 29th inst., at 11 o'clock a. m.

SAN FRANCISCO, CAL., *Sept. 29th*, 1862.

764 Examination of A. Marius Chapelle resumed from the 26th inst.

Present: All the parties.

Ans. 10. It could not.

Cross-examination.—Questions by counsel for int. Mahoney and claimant.

Ques. 11. In answer to ques. 3, you state that you are the owner of some land this side of the Ocean house, in section 24; state the situation of that land with respect to the pink lines on said map, how much you own, when purchased, and the price paid per acre.

Ans. It adjoins the subdivision line nearest the northern line of the tract included in pink lines on the Ransom survey, and lies a little east of Lake Puerca; I own ten acres; I purchased it about four months ago; I paid fifty dollars an acre.

12. How does the tract purchased by you compare with the tract enclosed in pink lines in quality, and does it not lie nearer to the city of San Francisco than the tract enclosed by pink lines?

765 Ans. There is not much difference in the quality on an average. I think my land is nearest to the city.

13. Supposing the tract purchased by you had been subdivided in 1853 into small lots, and sold at auction in the summer or fall of that year, what price, in your opinion, would it have brought per acre had the title been perfect?

Ans. It would have brought from 100 to 200 dollars.

14. What has caused the difference in the price which, in your opinion, it would have brought in 1853, and the price when you purchased?

Ans. I bought it for myself, and would not sell it for less than the price I have stated.

(Answer objected to by counsel for claimant as not responsive to the question.)

15. If the tract you purchased could have sold in 1853 at from 100 to 200 dollars an acre, what has caused the difference between

766 that price and the price you purchased at, viz: 50 dollars?

Ans. I think I made a good bargain; that is all I can say.

16. In 1853 did not the Bolton and Barron title cover the tract now owned by you?

Ans. I believe it did.

17. In answer to ques. 9, you state that you had an auction sale in 1853, and that you think the lands enclosed in the pink lines would have brought from 100 to 200 dollars an acre. Where are the lands situated which you sold at auction in 1853?

Ans. Some in Alameda; we sold other lands, but I cannot now recollect where they were.

18. Is your opinion of what the lands embraced in the pink lines would have brought in 1853 based upon the Alameda sale?

Ans. I think that if land in Alameda county would at that
767 time have brought from 400 to 500 dollars an acre, as it did, the land in the pink lines would have brought from 100 to 200 dollars an acre.

19. Did you sell at auction in 1853 any land by the acre nearer to the tract shown by the pink lines than the Alameda tract?

Ans. No.

20. What kind of land was it that you sold in Alameda county?

Ans. It was good agricultural land, on the Encinal; we sold somewhere about 30 acres which was unimproved.

Deposition closed.

A. M. CHAPELLE.

Subscribed and sworn to this 29th day of September, A. D. 1862, before me.

W. H. CHEVERS,
U. S. Com.

Endorsed: Filed Feb'y 5th, 1863.

W. H. CHEVERS, *Clerk.*

768 *Deposition of John Center on part of the United States.*

In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* JOSEFA DE HARO *et al.* } In land cases—dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this 26th day of September, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses, in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared John Center, a witness produced in behalf of the United States in the above-entitled cause now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who being duly sworn, testified as follows.

Present: W. H. Sharp, U. S. att'y, for the U. S.; and S. H.
769 Sharp, esq., for intervenor Mahoney and claimant.

Questions in behalf of the United States.

Question 1st. What is your name, age, and place of residence?

Ans. My name is John Center; my age is 42 years; I reside at the mission Dolores.

2. How long have you resided at the mission?

Ans. Since the middle of November, 1849.

3. During the said period what opportunity, if any, have you had to become acquainted with the prices and value of real estate in the neighborhood, and to the south of the mission Dolores?

Ans. I have passively seen transactions take place, but paid no particular attention to them, except where I was personally interested. I have bought and sold real estate in that vicinity.

4. State whether or not, in 1853, you were acquainted with
770 the rancho Laguna de la Merced, known as the de Haro ranch.

Ans. I know that there is a ranch of that name, but I knew nothing of it at that period. I was acquainted with its locality, but did not know anything about the grant, or its name, at that time.

5. Examine the map now shown to you marked Exhibit Ransom A, No. 1, and state whether or not, in July, 1853, you were, or are now, acquainted with the lands included within the external boundaries as represented by the said map.

Ans. I was acquainted with the lands in the vicinity of the lake house, and on the road leading from the Abbey to Lake San Bruno, and from the road I could see considerable portions of the land lying towards the west. Some time after I was appointed trustee for Mrs. Tissot, one of the heirs of de Haro—between 1858 or 1859, or thereabouts—I was called upon by a few of the parties in interest to ascertain the distance from about Lake San Bruno, as the
771 starting point which we made, and run by chain measurement along towards Lake Merced, making out some distance south of said lake as the boundary we imagined it would extend to; our object was to see how near the lake house we could come. That was all the participation or knowledge I had of the Laguna de la Merced at that time. Don Francisco Sanchez was there; pointed out some points about the lake as a starting point; I think James Denniston, Paul Tissot, and Prusso; the others I don't recollect. It was not intended as an official act of ours, but as a review. It was understood by me that an officer was to be there the next day, or thereabouts, to make a survey.

6. From the knowledge which you have of the rancho Laguna de la Merced, included within the external lines of the map you have examined, which, in your opinion, was the most valuable, or would have sold for the most money, in July, 1853; the lands included within the pink lines, or those included within the yellow lines?

772 (Objected to as incompetent, because the opinion of the witness as to the comparative value of the lands in 1853 cannot prove the opinion entertained on that subject at that time by de Zaldo, Ransom and Argenti.

Ans. From the little intercourse that I had with either portions, not having been down to the Lake Merced until the lake house was about being constructed, in 1853 or 1854, or about there, my opinion is that the Lake House property would have brought far the most money in view of its relative improvements and prospects.

7. What is your opinion as to the present relative value, per acre,

of the lands included in the pink lines, and those included in the yellow lines, without reference to the improvements?

(Objected to as irrelevant.)

Ans. It is some time since I have been there, and I am a poor criterion to give an opinion. Irrespective of any improvements at the present time, it would be a matter of little choice, in my opinion.

773 *Cross-examination.—Questions by counsel for int. Mahoney and claimant.*

Ques. 8. Was the house of Tissot included within the measurement made at the time you have mentioned when you were present?

Ans. I don't know.

Deposition closed.

JOHN CENTER.

Sworn to and subscribed this 26th September, 1862, before me.

W. H. CHEVERS,
U. S. Com'r.

Endorsed: Filed Feb'y 5th, 1863.

W. H. CHEVERS, *Clerk.*

Deposition of Leander Ransom on part of the United States.

In the district court of the United States for the northern dist. of California.

UNITED STATES *vs.* JOSEFA DE HARO *et al.* } In land cases—dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this 29th day of Sept., A. D.
774 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner, duly appointed by the circuit court of the United States for the districts of California, to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared Leander Ransom, a witness produced in behalf of the United States in the above-entitled cause now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows:

Present: W. H. Sharp, U. S. att'y, for the U. S.; and S. A. Sharp, esq., for intervenor Mahoney and claimant.

Questions in behalf of the United States.

Question 1st. Are you the same Leander Ransom who has been heretofore examined in this case?

Ans. I am.

2. Examine the paper now shown to you, marked Exhibit
775 Bartlett No. 1, and state all you know in respect to certain

school land warrants therein referred to, and which appear to have been issued in your name, and to have been assigned by you to Felix Argenti.

Ans. An act of the legislature of California, approved May 3d, 1852, authorized the issuing of 500,000 acres of school land warrants. This act provided that one person should not purchase more than 640 acres. In the early part of August, 1853, I think on or about the 9th, I purchased 640 acres of school land warrants of the State, and subsequently sold or transferred the same to Felix Argenti. This sale or transfer, I think, took place on the 12th of August of the same year. The warrants mentioned in Exhibit Bartlett No. 1 appear to be a portion, if not all of those warrants.

3. For what purpose, if any, were they transferred to Argenti?

Ans. The object of transferring them was, that he might use them if he thought proper. I presume that he intended at the time
776 to locate them on the land also specified in the said exhibit.

4. After the warrants were transferred to Argenti, what interest, if any, had you in them, or what control over them, other than you have stated in your former depositions in this cause?

Ans. None whatever.

Cross-examination waived.

Deposition closed.

LEANDER RANSOM.

Subscribed and sworn to this 29th day of September, A. D. 1862, before me.

W. H. CHEVERS, *U. S. Com.*

Endorsed: Filed Feb'y 5th, 1863.

W. H. CHEVERS, *Clerk.*

Deposition of John C. Hays on part of the United States.

In the district court of the United States for the northern district of California.

THE UNITED STATES *vs.* JOSEFA DE HARO *et al.* } In land cases—dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this first day of October, A. D.
777 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared John C. Hays, a witness produced in behalf of the United States in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows:

Present: W. H. Sharp, U. S. att'y, for the U. S.; and S. A. Sharp, esq., U. S. att'y, for the U. S.

Questions in behalf of the United States.

Question 1st. What is your name, age, and place of residence?

Ans. My name is John C. Hays; my age is over 45 years; I reside in Alameda county.

778 2. Were you the U. S. surveyor general for California in 1853 and 1854?

Ans. I was.

3. Have you any recollection of a preliminary survey of the rancho Laguna de la Merced, made in 1853, by Leander Ransom, U. S. deputy surveyor, under your authority?

Ans. I have some recollection of it. I think it was made under the direction of Mr. King, my immediate predecessor, approved by me, and sent to the land commission.

4. Do you remember whether or not the lands within the external boundaries of said rancho, and outside of the half league as located by Ransom, as claimed by the heirs, was sectionized and surveyed under your authority in 1854 as public lands?

Ans. I recollect none of the particulars of that survey; I merely recollect that the survey was made, and some land sectionized, I think, in the neighborhood of it, as public lands.

779 5. By what deputy surveyor were the said public lands sectionized?

Ans. I think it was Robert B. Hays, if I remember rightly.

6. About that time, what was the practice of your office in respect to making written contracts with deputy surveyors for sectionizing small portions of the public lands?

Ans. I think I usually, unless the price was very small, entered into a contract; but sometimes they were surveyed by special instructions, issued to the deputy without contracts.

7. Do you recollect whether or not Leander Ransom, Felix Argenti, or Ramon de Zaldo, made any request to you to have the said lands sectionized as public lands?

Ans. To the best of my recollection neither of them made any such request to me. I have no recollection of any such request.

8. State, if you remember, what induced you to cause to be
780 sectionized the said lands adjoining the Laguna de la Merced.

Ans. In this case, I do not recollect of any particular to me. It was my practice, however, when preliminary surveys were made, to authorize the land adjoining it to be sectionized, in order to enable settlers to perfect their claims, where it was good land. I do remember that, about the same time, at the request of the settlers who had settled upon lands adjoining the Maximo Martinez ranch, and the Coppinger ranch, I ordered the lands to be sectionized and surveyed as public lands. Those surveys were, I think, made by my brother, Robt. B. Hays.

9. Was it, or not, the practice of your office in 1853 and 1854, whenever requested by the attorneys for claimants, in cases pending before the land commission, to make preliminary surveys of the lands claimed, at the expense of the claimants?

Ans. It was; not only those which were pending, but those passed upon.

10. In cases where a smaller quantity was granted within
781 larger exterior limits, after the quantity claimed had been set apart by such preliminary survey, was it, or not, your practice, at that time, to survey and sectionize as public lands the lands within the external limits, and outside of the smaller tract, as located?

Ans. When there was enough in quantity and quality to justify, it was.

Cross-examination.—Questions by counsel for int. Mahoney and claimant.

Ques. 11. In answer to ques. 10, you state that when there was enough in quantity and quality to justify it, your practice, while you were surveyor general, was to sectionize as public land the lands within the exterior lines of the preliminary survey, and outside of the quantity claimed. State in what cases you pursued this practice while you were surveyor general.

Ans. I pursued it, I think, in several cases: one on the San Joaquin river, by the name of Orestimba, I think; the grant
782 to Vaca and Peña, Las Putos; I don't remember any other cases now.

12. Were the surveys, you have mentioned, made before or after the cases had been decided by the land commissioners; and if before the decree of the land commissioners, under what authority?

Ans. I do not recollect, but it appears to me that the survey on the San Joaquin river was made before the decision of the land commissioners. We had instructions from Washington to make this preliminary survey at the expense of the claimants, and I think to encourage it. We inferred, from those instructions, that we could sectionize the public lands. I now recollect the Honcut and Flugge ranchos, in the upper part of the Sacramento valley, were sectionized in that manner.

13. What would have been your practice, or what was your practice, if such a case occurred, where the land commission confirmed a tract of land different from that shown by the preliminary survey, and including lands already sectionized by you as public
783 lands?

Ans. I should have notified the department at Washington; the effect would have been to suspend the survey of the public lands; but I don't recollect of any such case occurring.

14. Was not the rancho Rio de los Americanos, claimed by Folsom, one of the cases you referred to?

Ans. I think so. There are several, if I could recollect them.

Deposition closed.

JOHN C. HAYS.

Subscribed and sworn to this 1st day of October, A. D. 1862, before me.

W. H. CHEVERS, *U. S. Com'r.*

Endorsed: Filed Feb'y 5th, 1863.

W. H. CHEVERS, *Clerk.*

Deposition of James Graves on part of the United States.

In the district court of the United States for the northern district of California.

THE UNITED STATES *vs.* JOSEFA DE HARO *et al.* } In land cases—dist. court No. 380.—Land com. No. 102.

784 Be it remembered, that on this second day of October, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared James Graves, a witness produced in behalf of the United States in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows.

Present: W. H. Sharp, U. S. att'y, for the U. S.; S. A. Sharp, esq., for int. Mahoney and claimant.

Questions in behalf of the United States.

Question 1st. What is your name, age, and place of residence?

Ans. My name is James Graves; my age is 35 years; I
785 reside in San Francisco.

2. How long have you resided in San Francisco?

Ans. Since September, 1849.

3. Are you acquainted with the lands about the Laguna de la Merced, and with the exterior limits of the Rancho Laguna de la Merced, as shown by map marked Exhibit Ransom, No. 1?

Ans. I am.

4. Do you know the relative value of lands within the exterior limits of the exhibit shown you in 1853?

Ans. I do.

5. Which was the most valuable at that time, the land within the pink lines, or the land within the yellow lines?

Ans. The lands in the pink lines.

6. Which is the most valuable now?

786 Ans. I should consider that within the pink lines.

7. About how much per acre was the land within the pink lines worth in 1853, and how much was the land in the yellow lines worth?

Ans. I should think the land in the pink lines was worth about $75 per acre; that within the yellow lines from $15 to $20.

8. What did the parties living within the pink lines in 1853 value that land at, and what did the parties living within the yellow lines value that land at?

Ans. I never heard much said about the land within the yellow lines, as it was not considered worth talking about; but that within the pink lines was valued from $75 to $125 per acre. Some very wild men would ask a great deal more.

9. Please state your reasons for thinking that the land within the pink lines was in 1853, and is now, more valuable than that within the yellow lines.

787 Ans. It is nearer the city. It is level, and by being cut up into small pieces, it would be of more value, and sell better.

10. Is the land adjoining the Laguna de la Merced on the east more or less valuable than an equal quantity of any other land within the exterior limits, shown by Exhibit Ransom, No. 1?

Ans. It is more valuable.

Cross-examination.—Questions by counsel for intervenor Mahoney.

Ques. 11. How did you acquire your knowledge of the value of the land mentioned in 1853?

Ans. By talking about buying it, and trying to buy it; I went and looked at it, and I did buy an interest in the Ridley ranch. I was in the livery business at that time, and every one that came in from there talked about it.

12. In answer to ques. 9, you state your reasons for think-
788 ing the land in the pink lines the most valuable, to be because it is nearer the city, and level. Have you any reasons to offer for the difference in value, besides those mentioned?

Ans. I have none.

13. What was the difference in the value of the lands considered as agricultural and grazing lands, and without regard to the near vicinity of the city?

Ans. I should regard that the land in the pink lines was the best for agricultural purposes, because it was nearer to the city, easier to get at, and at that time I did not consider the hills fit for agricultural purposes, but only for grazing.

13. Is not the land lying north of the county line of a sandy nature, and entirely different from that south of the county line?

Ans. It is generally sandy north of the county line; it is not so sandy south of it.

Deposition closed.

789 JAMES GRAVES.

Subscribed and sworn to this 2d day of October, A. D. 1863, before me.

W. H. CHEVERS, *U. S. Com.*

Endorsed: Filed Feb'y 5, 1863.

W. H. CHEVERS, *Clerk.*

Deposition of Isaac N. Thorne on part of the United States.

In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* JOSEFA DE HARO *et al.* } In land cases—dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this third day of October, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared Isaac N. Thorne, a witness produced in behalf of the United States in the above-entitled cause, now pending in said court,
790 under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows.

Present: W. H. Sharp, U. S. att'y, for the U. S.; S. A. Sharp, esq., for intervenor Mahoney.

Questions in behalf of the United States.

Question 1st. What is your name, age, and place of residence?

Ans. My name is Isaac N. Thorne; my age is 37 years; I reside in San Francisco, and have resided here since 1849.

2. Look at the map marked Exhibit Ransom A, No. 1, and say if you know the land shown thereon.

Ans. I do; I have ridden over them very often, and know the general character of them very well.

3. Did you know them in 1853 and 1854?

Ans. I did.

4. Have you been a dealer in real estate in and about this city and county, and San Mateo county? If so, for how long?

791 Ans. I have, since 1850.

5. Look at the lands embraced in the pink lines on the map shown you, and the lands embraced in the yellow lines on the same map, and state, if you know, which lands were the most valuable in 1853 and 1854.

Ans. I considered at that time that the land in the pink lines was more valuable than that embraced in the yellow lines, for the land within the pink lines was more level, nearer the city, and adjacent to the lakes, and it was thought at that time that these lakes would be a place of great resort.

6. Was it generally considered that the lands in the pink lines were more valuable than those in the yellow?

Ans. In my opinion it was so, generally considered.

7. In your opinion were the lands in the pink lines as valuable in 1853 as any other equal quantity shown by the map?

Ans. Taken in a body I should think it was more so.

792 The foregoing deposition is objected to as incompetent and irrelevant, and because the opinion of the witness cannot prove what the comparative value of those lands were, in the opinion of Ransom, Argenti, and de Zaldo, at that time.

Cross-examination waived.

Deposition closed.

ISAAC N. THORNE.

Sworn to and subscribed October 3, 1862, before me.

W. H. CHEVERS, *U. S. Com.*

Endorsed: Filed Feb'y 5th, 1863.

W. H. CHEVERS, *Clerk.*

Deposition of William Greene on part of the United States.

In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* JOSEFA DE HARO *et al.* } In land cases—dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this third day of October, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the cir-

793 cuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared William Greene, a witness produced in behalf of the United States in the above-entitled cause, now pending in said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows.

Present: W. H. Sharp, U. S. att'y, for the U. S.; and S. A. Sharp, esq., for intervenor Mahoney.

Questions in behalf of the United States.

Question 1st. What is your name, age, and place of residence?

Ans. My name is William Greene; my age is 50 years; I reside in San Francisco, where I have resided since 1849.

2. Are you acquainted with the lands shown upon the map now shown you, marked Exhibit Ransom A, No. 1; and if so, how long have you been?

794 Ans. I am, and have been from 1853.

3. Have you been a dealer in real estate?

Ans. I have, since 1851.

4. Are you well acquainted with the lands within the pink lines, and the lands within the yellow lines, on the said map shown you?

Ans. I am.

5. In 1853, were the lands within the pink lines, or those within the yellow lines, the most valuable?

Ans. I should consider that, from their locality, the lands within the pink lines were the most valuable.

6. What was the value of the land within the pink lines, per acre, in 1853?

Ans. I could not say.

7. Why do you consider the lands within the pink lines more valuable than those in the yellow lines?

795 Ans. They are easier of access from the city, and are more level lands.

8. Which do you consider the most valuable now?

Ans. I have not been there for two or three years, and cannot say.

The foregoing deposition is objected as incompetent, because the opinion of the witness cannot prove what the comparative value of those lands were, in the opinion of Ransom, Argenti, and de Zaldo, at that time.

Cross-examination.—Questions by counsel for int. Mahoney.

Ques. 9. Which is the best land for grazing purposes, without regard to its proximity to the city?

Ans. There is plenty of water in the pink lines, and I should think it would be the best for agricultural purposes; that in the yellow lines I should think might be the best for grazing purposes.

Deposition closed.

WM. GREENE.

796 Subscribed and sworn to this 3d day of October, A. D. 1862, before me.

W. H. CHEVERS,
U. S. Com.

Endorsed: Filed Feb'y 5th, 1863.

W. H. CHEVERS, *Clerk.*

797 *Dep. of Leander Ransom on part of the U. S.*

In the district court of the United States for the northern district of California.

THE UNITED STATES *v.* JOSEFA DE HARO *et al.* } In land cases, dist. court No. 380.—Land com. No. 102.

Be it remembered, that on this 8th day of December, A. D. 1862, at the city of San Francisco, in the district aforesaid, before me, Wm. H. Chevers, a commissioner duly appointed by the circuit court of the United States for the districts of California to take acknowledgments of bail and affidavits, and also to take depositions of witnesses

in civil causes depending in the courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared Leander Ransom, a witness produced in behalf of the United States in the above-entitled cause, now pending in the said court, under the acts of Congress to ascertain and settle the private land claims in the State of California, who, being duly sworn, testified as follows.

Present: W. H. Sharp, U. S. att'y, for the U. S.; and S. A. Sharp, esq., for intervenor Mahoney.

Questions in behalf of the United States.

798 Question 1st. Are you the same Leander Ransom who has been heretofore examined in this case?

Ans. I am.

2. Have you read over your previous examinations in this case?

Ans. I do not recollect of doing so since they were taken.

3. Whenever you were examined in this case, did you read over any of your previous examinations?

Ans. I have no recollection of doing so.

4. Have you examined lately the archives of the surveyor general's office, and if so, when, with regard to surveys of lands claimed under Spanish grant, and running township and section lines inside of the diseño, before confirmation by the district court or final confirmation?

Ans. Having been informed that certain parties had represented that no surveys had been made by direction of the U. S. surveyor general within the exterior boundaries of the tracts as claimed

799 under Mexican grants, that were similar to the surveys made in and about the exterior boundaries of the rancho Laguna de la Merced, I made an examination of sundry records in the surveyor general's office, to ascertain if those statements were correct. These examinations were made during the month of November last. I am satisfied, from the result of my examination, that during the years 1853, 1854, 1855, 1856 and 1857, at least fifty township and fraction townships were sectionized, that occupied the exterior boundaries of at least twenty-five ranchos as claimed under Mexican and Spanish grants, which sectionizing was done under contracts with the U. S. surveyor general, before the final survey of the ranchos.

5. Please give a list of those ranchos and of the surveys which were made.

Ans. I would mention as a portion of them "Buena Vista," "Barranca Colorado," "Aguas Frias," "Fernandez Honcut," "Sutter's upper ranch," "Jimeno," "Sheldon's," "Arroyo Seco," "Tolines," "Campo de Franceses," "Rio el Stanislaus," "Thompson's ranch," "El Pescadero," "Orestimba," "San Gregorio," "Rio San Joaquin."

800 6. Was the county shown by the diseño in those cases townshipped and sectionized before confirmation and final survey of the Mexican grants, and did the final survey in some instances embrace lands that had been thus surveyed as public lands?

Ans. Township lines are extended without any reference to grants.

Sectionizing in these cases was executed I think in every instance previous to final confirmation of the grants or claims. In several instances the final survey of the ranch has included portions of the sectionized townships.

7. Was it the custom of the surveyor general, while you were connected with the office, to township and sectionize the land adjoining the ranchos as rapidly as could be done at the request of settlers upon the said land, so that the said settlers might make preemptions and take other necessary steps to perfect their titles?

Ans. It was.

8. Do you know Alfred A. Green?

801 Ans. I do.

9. Was he present at any time while you were surveying the Laguna de la Merced rancho?

Ans. At the time I was running the exterior boundaries of the land claimed under the Laguna de la Merced grant where it crossed the land claimed by him, he came to me and inquired why I was making the survey that I was. I informed him that I was doing work under instructions from the surveyor general, so that the rancho Laguna de la Merced could be located. He warned me to desist from making surveys or running lines across land claimed by him. I informed him that I had authority from the U. S. surveyor general to make the survey I was then engaged in, and unless I was interfered with by a force superior to my own, I should complete it, and advised him to attend to his own business; that if he interfered with me, it would be at his peril. He remarked that he would go to the mission and consult his lawyer. By the time he returned from the mission I had completed the survey so far as it extended

802 across the field he claimed, and was not within his enclosure; consequently he attempted no further interference.

10. Did you assure Mr. Green that the survey you were then making was of no legal effect?

Ans. I did not.

11. Do you know one James G. Denniston?

Ans. I do.

12. Do you recollect of the said Denniston's going to you while you were in the surveyor general's office, to complain of the survey of the Laguna de la Merced made by you?

Ans. I have no recollection of any interview of that kind.

13. Do you recollect that Denniston told you that you were robbing the de Haro heirs by that survey?

Ans. I have no recollection of any conversation of that kind.

803 14. Do you recollect of having ever ordered Denniston out of your office when he went to complain of that survey?

Ans. I have no recollection of ever having had any harsh or ungentlemanly words with Mr. Denniston at any time or on any subject, and know of no reason why I should have had. I am very confident that he accompanied me at the time I made the final measurements and set the stakes, segregating the half league as selected by

the heirs of de Haro. As he made no objection at that time to the location, I did not suppose he had any.

15. I now read you the answer to ques. 4 of the deposition of James G. Denniston in this case on the 17th September, 1862. Please state if that answer is true so far as you are concerned.

(The answer referred to is read by the commissioner to the witness.)

Ans. I have no recollection of anything of the kind stated in that answer, and do not believe it for the reasons set forth in my previous answer.

804 *Cross-examination.— Questions by counsel for intervenor Mahoney.*

Ques. 16. In answer to ques. 4 and 5, you give a list of certain ranchos, the exterior boundaries of which had been sectionized under instructions and contracts made by the surveyor general of the U. S. for California. State which of them are similar to what is known as the "Ransom survey" in this case in this: The exterior lines of the external boundaries first surveyed, then the quantity named in the grant located within those external lines, and the land, or a portion of it, between the quantity located and the external lines sectionized.

Ans. What I intend to mean by "similar" is the grants calling for boundaries or points that would include a much larger quantity than that specifically called for in the grant. The Sutter grant is of that character. I don't recollect any others where the exterior boundaries of all the land claimed have been actually run.

Deposition closed.

LEANDER RANSOM.

Sworn to and subscribed this 8th day of December, A. D. 1862, before me.

W. H. CHEVERS,
805 *U. S. Com'r.*

Endorsed: Filed Feb'y 5th, 1863.

W. H. CHEVERS, *Clerk.*

Certified copy of deed, A. H. Green et al. to D. C. Broderick.

Wm. H. Green *et al.* to David C. Broderick.

This indenture, made this day of August, one thousand eight hundred and fifty-three, between William H. Green, Alfred A. Green, and Dolores, his wife, all of the county of San Francisco, California, of the first part, and David C. Broderick, of the same place, of the second part, witnesseth, that the said parties of the first part, for and in consideration of the sum of eleven thousand dollars lawful money of the United States of America, to them in hand paid by the said party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold, released, remised, and conveyed, and
806 by these presents do grant, bargain, sell, remise, release, and convey, unto the said party of the second part, and to his heirs

and assigns forever, the equal undivided one-half part of a certain tract or parcel of land lying and being situate in the county of San Francisco aforesaid, containing about six hundred and forty (640) acres, more or less, the description of all of which will more fully and at large appear by reference to the diagram marked "A," hereto annexed, together with all and singular the tenements, hereditaments thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, to have and to hold all and singular the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, his heirs and assigns forever; and the said parties of the first part do further covenant to and with the said party of the second part, that they will warrant and defend the said premises against the claim or claims of themselves, their heirs and assigns forever. And the said parties of the first part do hereby covenant and agree to and with the said party of the second part, his heirs
807 and assigns, that at the expiration of one year from the date of these presents, for the further consideration of the sum of eleven thousand dollars, they, the said parties of the first part, shall sell and convey unto the said party of the second part the remaining one-half of said rancho, providing the same shall not have been confirmed to the estate of Francisco de Haro; and the said parties of the first part do hereby further covenant and agree to and with the said David C. Broderick, that should the said Haro claim not be finally confirmed within one year from the date of these presents, that then, and in that case, the time of making such further deed of the remaining undivided one-half interest shall be extended until such confirmation shall take place.

In witness whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

WILLIAM H. GREEN. [SEAL.]
ALFRED A. GREEN. [SEAL.]
DOLORES LEGAMETA. [SEAL.]

Sealed and delivered in the presence of—
T. A. LYNCH.

808 STATE OF CALIFORNIA,
County of San Francisco, ss:

On this thirtieth day of August, A. D. 1853, before me, a notary public in and for said county, personally appeared William H. Green, Alfred A. Green and Dolores L., his wife, known to me to be the persons described in and who executed the within instrument, and severally acknowledged that they executed the same freely and voluntarily, for the uses and purposes therein mentioned.

And the said Dolores L., on an examination by me had separate and apart from and without the hearing of her said husband, said that she understood the contents of the same, and acknowledged its

execution freely and voluntarily, and said that she did not wish to retract the execution of the same.

Witness my hand and official seal.

T. A. LYNCH, [SEAL.]
Not. Pub.

(Here follows map, p. 808.)

809 Containing six hundred and forty acres, more or less.

810 A true copy of the original, recorded at request of D. C. Broderick, Aug. 30, 1853, at 4¾ p. m.

THOS. B. RUSSUM,
County Recorder,
Pr. JOHN A. CLARK, *Deputy.*

I, Thomas Young, county recorder in and for the city and county of San Francisco, do hereby certify that the foregoing is a full, true and correct copy of an original record now in my office, as will appear by reference to liber 25 of deeds, page 265.

Witness my hand and official seal, this the third day of October, A. D. 1862.
[SEAL.]

T. YOUNG,
County Recorder.

Endorsed: Filed Feb'y 5, 1863.

W. H. CHEVERS, *Clerk.*

Deed—G. M. Green to Wm. T. Prince.

This indenture, made the fifteenth day of September, in the year of our Lord one thousand eight hundred and fifty-nine, between George M. Green, of San Francisco, California, party of the first part, and William T. Prince, of the same place, party of the second part, witnesseth, that the said party of the first part for and in consideration of the sum of eleven hundred dollars lawful money of the United States of America, to him in hand paid by the said party of the second part, at or before the ensealing and delivery of these pres-
811 ents, the receipt whereof is hereby acknowledged, hath remised, released, and quitclaim, and by these presents doth remise, release, and quitclaim, unto the said party of the second part, all that certain piece or parcel of land situate, lying and being in the county of San Mateo, being the south half of the northwest quarter of section two, in township three south, range six west; also the north half of the southwest quarter section two, township three south, range six west, and more fully described as follows, to wit: commencing at a point on the northeast corner of lands occupied by Benjamin S. Green, where a fence intersects with a ditch; thence westerly and following the line of the ditch and fence to high-water mark on the Pacific ocean; thence at right angles northerly and following the line of high-water mark forty chains; thence at right an-

gles easterly and following the line of a ditch till it intersects with a fence, being the western boundary of lands claimed by Wohler and Wilkes; thence at right angles southerly and following the line of said fence to place of commencement, being the same land conveyed by deed from Benj. S. Green and Hannah Green, his wife, to G. M. Green, bearing date the fourteenth September, 1859, and containing 160 acres, more or less, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, property, possession, claim and demand,
812 whatsoever, as well in law as in equity, of the said party of the first part, of, in, or to the above described premises, and every part and parcel thereof, with the appurtenances, to have and to hold all and singular the above-mentioned and described premises, together with the appurtenances, unto the said party of the second part, his heirs and assigns forever.

In witness whereof, the said party of the first part hath hereunto set his hand and seal the day and year first above written.

GEO. M. GREEN. [SEAL.]

Signed, sealed and delivered in presence of—
C. GARVEY.
JAMES GALLAGHER.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

On this fifteenth day of September, A. D. one thousand eight hundred and fifty-nine, before me, C. Garvey, a notary public in and for said city and county, appeared Geo. M. Green, to me personally known to be the individual described in and who executed the foregoing instrument as a party thereto, and he acknowledged to me that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.
[SEAL.]

C. GARVEY, *Notary Public.*

Recorded in county recorder's office, San Mateo county, September 19th, 1859, at 8 a. m., in liber 1 of deeds, page 590.

B. G. LATHROP,
County Recorder.

Endorsed: Filed Feb'y 5th, 1863.

W. H. CHEVERS, *Clerk.*

T. 3 S., R. 6 W.—Mt. Diablo meridian.

Register of land selected by the agent of the State of California, under the act of Sept., 1841.

Date of location.	No. of Warrant.	Part of section.	Sec.	Town.	Range.	Am't of acres taken.	Am't taken for.	Name of parties.	Total am't.
July 1st, 1844	71	N'east quarter	14	3 S.	6 W.	160.00	160	James Pratt, by James W. Denver.	
" " "	510	S'east "	11	" "	" "	160.00	160	" " " " " "	
" " "	9648	N'east ¼ of s'west quarter.	11	" "	" "			" " " " " "	
" " "	"	And east ½ " n'west "	11	" "	" "				
" " "	"	And fraction No. 1 in "	11	" "	" "	159.99	160	" " " " " "	
" " "	620	N'east quarter	11	" "	" "	160.00	160	" " " " " "	
" " "	621	N'east ¼ of s'west quarter.	14	" "	" "			" " " " " "	
" " "	"	And east ½ of n'west "	14	" "	" "			" " " " " "	
" " "	"	And s'east ¼ of s'west "	11	" "	" "	160.00	160	" " " " " "	800

REMARKS.—These warrants floated, and delivered to James Pratt, esq., April 29th, 1858.

WM. W. GIFT, *Reg'r.*

U. S. LAND OFFICE,
San Francisco, Oct, 7, 1862.

I certify that the foregoing is a full, true, and correct copy of the original record in the register's office
814 at this place, of the location and float of warrants in the name of James Pratt.

JOHN E. MUNSON,
Acting Clerk.

Endorsed: Filed Feb'y 5, 1863.

W. H. CHEVERS, *Clerk.*

Opinion modifying survey.

United States district court, northern district of California.

THE UNITED STATES
vs.
THE HEIRS OF FRANCISCO DE HARO. } No. 380.

An opinion having been heretofore delivered by which the official survey was rejected, and the preliminary survey presented to the board adopted, a rehearing, with leave to introduce further proofs, was, on motion, granted by the court.

A large number of additional depositions have accordingly been taken, and the cause is again presented for final decision.

The ground principally relied on by the claimants is, that
815 the land embraced the survey adopted by the court was in no manner elected by the claimants as a location of the half league granted to them; but that the tract was selected in pursuance of a fraudulent combination between the administrator of the estate of de Haro and the U. S. deputy surveyor.

But this allegation seems unsupported by the proofs.

The facts appear to be as follows: At the organization of the board, the practice obtained to direct a preliminary survey of land claims presented for confirmation, in order to enable the board to identify and describe them in its decrees. This practice was subsequently abandoned. But it was by many supposed expedient, if not necessary, to prove by an actual survey the limits of the grant, and that the land was capable of identification and segregation.

The attorneys for the claimant in this case accordingly requested the surveyor general to make a survey of the rancho of Laguna de la Merced.

The survey was made not only of the exterior boundaries
816 of the rancho, but also of a tract one league long, by half a league wide, which the deputy surveyor certified had been selected by the parties in interest, and surveyed in accordance with their wishes.

The land on the outside of this tract, and within the exterior boundaries, was soon after sectionized as public land; and it has since been extensively settled on and improved by persons claiming under the pre-emption laws.

It appears, however, that the sectionizing of these lands was not made solely on the interests of the U. S., or in the regular and usual course of the business of the surveyor general's office.

It seems to have been done at the suggestion of Mr. Felix Argenti, who proposed to Mr. de Zaldo, the administrator of de Haro's estate, and the person principally charged with the conduct of the litigation, and to the deputy surveyor, that school land warrants should be bought and located upon the lands not included within the half league tract designated for the claimants.

The warrants, though purchased, were never located on the land, and they have since been floated.

817 It is this transaction which the claimants allege to have constituted the fraud they complain of.

It would seem from the petition presented to the board from the testimony taken on either side, and from their opinion, that the claimants contended for a confirmation of their claim to the entire tract included within the exterior limits of the diseño.

It was therefore improper for the administrator of the estate, while making through his attorneys this pretension, to attempt to acquire for himself, or facilitate the acquisition by others of an adverse title to any portion of the lands thus claimed to be embraced within the grant. It was also clearly irregular in the deputy surveyor to sectionize and attempt to acquire for himself those lands in advance of the decision of the board by which the extent of the grant and its location would be determined.

It is to be observed, however, that the title papers very clearly indicate that the grant was for the precise quantity of one-half a league.

Mr. de Zaldo testifies that he was always aware that the

818 grant must be limited to the quantity specified, and Mr. Clarke, one of the attorneys by whom the claim was presented, swears that such was always his opinion, and that he does not think any doubt was entertained on the subject by Mr. de Zaldo.

It would seem from Mr. Horace Hawes's deposition, that it was by his advice that the claim to the larger quantity was urged; and though it appears to have been made by the attorneys first employed in their petition, yet, if Mr. Clarke's recollection be accurate, it was, both in his and Mr. de Zaldo's opinion, wholly untenable—an opinion, it is to be observed, abundantly justified by the facts of the case, and the result of the litigation.

Entertaining this view, it can hardly be alleged as a fraud on the part of Mr. de Zaldo, that he caused the half league to which the claimants were entitled to be first located, and then proposed to acquire for himself and his associates the remaining land within the exterior boundaries; provided the selection was made bona fide in the interest of the claimants, and with their knowledge and consent.

That it was fairly made, I see no reason to doubt, for the

819 proof is conclusive that the half league designated was then, and is now except for the subsequent improvements of the settlers, the most valuable portion of the rancho; nor can it, I think, be doubted, notwithstanding the recent testimony of the heirs, that the designation of the half league tract was known to them, and especially to Messrs. Brown and Denniston, the husbands of two of them; one of these was actually present at the survey, and it appears that the location and limits of the tract were frequently discussed by the members of the family.

The plat on which were marked the exterior limits of the rancho, and also the boundaries of the half league, was on file in the records of the board; and the fact that the selection had been made by the

administrator, who was conducting the litigation, could not have escaped notice.

This location does not, however, appear to have been accepted or contended for by the counsel for the claimants. But this is naturally accounted for by the fact that he was contending for a confirmation of the whole tract, and not of the specific quantity of half a league.

It does not appear that any objection was raised to this location,
820 provided the claimants were to be restricted to half a league.
But the silence of counsel in this respect may perhaps be due to the fact that the idea then generally prevailed that the jurisdiction of the board was limited to passing upon the genuineness and validity of the grant, and that the location was to be determined by the surveyor general.

That officer having already approved a preliminary location of the half league, and having even sectionized the land outside of it, it is apparent that the claimants had no motive, if restricted to half a league, with the location of which they were content to raise the question.

It is stated by Mr. Hawes that his own opinion was that the claimants were entitled to the whole tract, and that he was employed to advocate their interests by Mr. de Zaldo and Mr. Frisbie.

It would seem, therefore, that, notwithstanding his acceptance of Argenti's proposition to locate warrants on the land outside of the half league tract, Mr. de Zaldo neglected no means to obtain for the estate a confirmation of the entire tract.

821 The deputy surveyor appears very naturally to have received Mr. de Zaldo's assurances as to the selection by the heirs of the half league tract as true; and he very probably supposed that the sectionizing and even the location of warrants upon the remaining land could do no injury to them; for if the claim to the whole rancho was confirmed, the title of the claimants would, of course, be superior; but if the confirmation should be for only half a league, the claimants had selected the land which they desired. Looking critically at the whole transaction, I cannot perceive in it any just foundation for the accusation of fraud which has been made against the parties principally concerned.

It has already been observed that the selection of the half league appears to have been made not only at the express desire of the administrator representing the estate, but with the knowledge and consent of the heirs.

It also appears that the survey of the half league tract embraced the most valuable lands of the rancho; that Denniston, the husband of one of the heirs, was present at the survey, and made no objection;
that he saw the plat, and consulted with de Zaldo and the
822 rest of the family in regard to it; that he and Brown took up claims outside of the survey, and advised others to do so; that Brown, as guardian of a minor heir, leased a part of the land included in the half league tract, describing it as a part of the rancho; that Brown and his wife mortgaged a part of the same tract, describing it in the same manner; that Denniston and his wife sought to enjoin

proceedings on this mortgage alleging the land to be part of the de Haro rancho; that Dennniston and wife afterwards conveyed the same land to Andrews; that the other adult heirs saw the plat of the survey at the time it was made—knew what it was, and made no objection; that from the date of the survey, up to the time when Mahoney purchased the entire interest, no complaint was made or any steps taken to obtain a new location of the land; and, finally, that the U. S., through its surveyor general, have treated the section as valid, and sectionized the land outside, which has in great part passed
823 into the hands of bona fide purchasers, who have erected permanent and costly improvements.

If, then, the only question were whether the claimants have now a right arbitrarily to select a half league anywhere within the exterior boundaries, its solution would not be difficult.

In the case of Mesa *vs.* U. S. it was observed by this court that the right of electing the location is not an absolute right conferred by either the Mexican law or our own; it is a privilege conceded by the United States to the claimant, subject to every restriction imposed by equity, good faith, and a due regard to the interests of third persons, and those of the government.

In this case it is clear that the selection of the tract was made by the administrator and representative of the estate, with the knowledge and acquiescence of two at least of the parties principally interested. The government has acted upon it by sectionizing the adjacent land, while no wrong has been done the other heirs of de Haro, for the land selected was the most valuable part of the rancho.

It is urged, however, that the decrees of the board and of
824 this court fix the location of the land.

These decrees describe the land confirmed "as one league from north to south, and half a league from east to west, to be located within the limits of the diseño, regard being had to the actual occupation of the original grantee and the ancestor of the present claimants."

In the opinion of the board it is stated that the "location is to be made so as to embrace that portion of the land actually occupied and cultivated by the original grantee, and his immediate alienee, Francisco de Haro."

It is clearly shown that the first house built by Galindo and occupied by him, and afterwards by de Haro for several years, was at the extreme southern portion of the tract, near Lake Bruno.

About the time of the American occupation de Haro built another house near Lake Merced, which he ever afterwards continued to occupy.

If the survey of the half league tract be adopted the land will be located at the northern end of the tract, and the site of Galindo's house excluded.

It is apparent from the transcript that the only point to
825 which the attention of the board was specially directed was whether the claimants were entitled to the whole tract, or only to the specific quantity of one half league.

The opinion does not refer to the half league tract which had been surveyed, as the surveyor's return showed, at the desire of the claimants. The propriety of adopting that location does not seem to have been discussed.

The fact, however, remains, that with the plat before them on which the half league selected by the claimants was plainly marked, the board refused or omitted to confirm their claim to that specific tract, but expressly, in their opinion and decree, prescribed a different location.

When the cause was before this court on appeal, it was still competent for the U. S., in the interest of those who had settled on the outside lands, to ask that the decree should be modified, so as to adopt the half league tract.

But no such application was made, and a decree was entered in this court, precisely in the terms of that made by the board.

As this decree has become final, I know not how its opera-
826 tion is to be avoided.

When read in connection with the opinion of the board, it unequivocally declares that the land must be located so as to embrace the houses and cultivations of Galindo and de Haro.

If the location contended for by the U. S. be adopted, this decree will not be complied with.

I reach this conclusion with reluctance, for I fear it may be productive of much hardship to settlers, who may have relied on the declarations of some of the parties in interest, and on the fact that the U. S. had sectionized the land as sufficient security that they were on public and not private land.

But it is to be remembered, that before the board, and in this court, the claimants always contended for the whole tract within the limits of the diseño, until their rights were finally determined. A settlement upon any of the land was not only in violation of the act of Congress, but at the risk of the settlers. If the settlements were effected after the decree of the board or of this court, common prudence should have suggested that the only way of ascertain-
827 ing that, as well as how much land was confirmed, was to consult the final decree under which the survey was to be made, and the patent to issue.

Had they done so, they would have perceived that even if the claimants had in the most formal manner designated the land they desired, and even if they had wished, and still wished, that location to be adopted, neither the board nor this court had ratified their selection, but that both had confirmed them to a tract to be located in a different manner.

The intervenor Mahoney may also, with some reason, insist that, having purchased subsequently to the decree, he has a right to have the land located as therein directed, and that he is not bound by a selection which appeared to have been tacitly repudiated by the board and by this court.

On the whole, I cannot perceive that any other course is open to me than to confirm the survey made pursuant to the decree.

No exceptions to the official survey of the half league have been suggested, except on the part of the U. S.

It is not contended that it is not in accordance with the decree, or in any respect objectionable, provided the half league tract
828 is not adopted, or the survey made to embrace the entire tract, irrespective of quantity.

As this last preclusion is wholly inadmissible, I shall approve the survey and location as made under the decree, by the surveyor general.

Since writing the above, my attention has been called to the fact that the official survey does not pursue the terms of the decree, inasmuch as the tract surveyed is not one league in length from north to south, by half a league in width from east to west. As the right of the claimants, or rather of the intervenor Mahoney, rests entirely on the decree, it is proper that he should be held strictly to its terms. The land should therefore be measured one league from north to south, and half a league from east to west, bounded by north and south and east and west lines, provided that the same can be done without passing the exterior boundaries of the original grant and diseño; and if this cannot be done, then the lines of the survey are to be drawn so as to approximate as nearly as possible.

By so doing, not only will the decree be strictly observed, but the ordenanzas according to which the grant was directed to be
829 measured will be followed.

An order to this effect will be entered.

Endorsed: Filed May 30, 1863.

W. H. CHEVERS, *Clerk.*

Order modifying survey.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Wednesday, the 3d day of June, in the year of our Lord one thousand eight hundred and sixty-three.

Present: The honorable Ogden Hoffman, district judge.

THE UNITED STATES
v.
JOSEFA DE HARO *et al.* } No. 38.

This cause came on to be heard upon the further testimony taken in pursuance of the rehearing granted herein, July 16, 1862; and counsel for the respective parties being present and heard, and due deliberation had in the premises, it is now ordered, adjudged,
830 and decreed, that the order entered June 18, 1862, be, and the same hereby is, vacated. And it is further ordered, adjudged, and decreed that the official survey of the land confirmed, shown by the plat filed Nov. 22, 1859, be, and the same hereby is, set aside as erroneous. And it is further ordered that the surveyor general of the United States for California cause a new survey to be

made of the land confirmed, and return a plat of the same without delay to this court for its approval. And it is further ordered that said new survey shall be made in accordance with the opinion of this court filed May 30, 1863, as follows: A tract of land shall be located and surveyed within the exterior boundaries named in the grant and shown on the diseño, which tract shall be measured by north, south, east, and west lines, as directed by the ordenanzas, so as to include a tract of half a square league, being one league from north to south, and half a league from east to west; provided that the same can be done without passing the exterior boundaries named in the grant and shown on the diseño, and without infringing upon the surveyed
831 lines of any adjoining rancho—in which case the said location and survey shall approximate as nearly as possible, and in the manner directed by said ordenanzas; and provided further, that such location and survey shall include the actual occupation of Galindo, the original grantee, and of de Haro, the ancestor of the present claimants, as shown on the plat filed Nov. 22, 1859.

OGDEN HOFFMAN,
Dist. Judge.

Endorsed : U. S. SUR. GEN'L'S OFFICE,
San Francisco, June 4, '63.

A copy of the within has been rec'd in this office.

E. F. BEALE,
U. S. Sur. Gen'l.
By E. CONWAY,
C. Clerk.

Filed June 3d, 1863.

W. H. CHEVERS, *Clerk.*

(For plat of survey see page 842 of this transcript.)

832

833 *Exceptions to survey by the U. S.*

District court of the United States for the northern district of California.

UNITED STATES
vs.
JOSEFA DE HARO *et als.* } No. 380.

The United States, by Wm. H. Sharp, district attorney, on behalf of the said United States and on behalf of R. S. Thornton, J. G. Knowles and others, settlers claiming title under the United States, comes and excepts to the official survey made in the above-entitled cause, a copy plat of which survey was filed in said cause on the 19th day of June, 1863, and was approved by E. F. Beale, United States surveyor general for California, on the 15 day of June, 1863, and moves that said official survey be set aside and a new survey ordered, for the following reasons: 1st. The said survey does not conform to the decree of this court, entered on the 3d day of June, 1863, under

which decree said survey was made, in this, to wit, that the lines thereof do not run due east and west, north and south, as they could and should do; and the eastern line of said survey is less than one league in length, and the western line is much more than one
834 league in length, whilst the northern and southern lines are more than a half league in length; and in these respects the said survey departs both from said decree and the ordinances therein mentioned.

2d. The said survey is erroneous for the reasons set forth in the exceptions filed on behalf of the United States to the original official survey herein, which exceptions are now insisted upon as applicable to the present survey.

3d. The land included in said official survey is not, nor any part of it, situate in the county of San Francisco, whereas the land confirmed is all described in the decree of confirmation as situate in said county.

WM. H. SHARP,
U. S. Att'y.

Endorsed: Filed June 22, 1863.

W. H. CHEVERS, *Clerk.*

835 *Exceptions of claimants and D. Mahoney.*

United States district court, northern district of California.

THE UNITED STATES
vs.
JOSEFA DE HARO *et al.* } No. 380.

And now come the claimants and David Mahoney, assignee of some of the claimants of the land claimed in this cause, and excepts to the survey filed herein on the 19th day of June, A. D. 1863, and which appears to have been approved by the United States surveyor general for the State of California, on the 15th day of June, A. D. 1863:

First. Because said survey is not in accordance with the original decree of confirmation in this cause in any of the courses and distances thereof, or the quantity of land that should be included therein.

Second. Because said survey is not in accordance with the order or decree of this court, bearing date June 3d, 1863, in any of the courses or distances thereof, or the quantity of land included therein.

Third. Because said survey does not conform to the calls of the grant and diseño in this cause in regard to the courses and
836 distances thereof, or the lands to be included therein, or the shape thereof, or the quantity of land that should be included therein.

Fourth. Because said survey does not include all of the land which appears to have been granted to the claimants in this cause.

Fifth. Because said court had no jurisdiction to order said survey.

Sixth. Because said survey was made and filed in this cause without authority of law.

Wherefore the said assignee of claimants prays said survey may be set aside and stricken from the files of this court.

SOL. A. SHARP,
Att'y for Mahoney and Claimants.

Endorsed: Service of copy admitted this June 29, 1863.
W. H. SHARP, *U. S. Att'y.*

Filed June 30, 1863.
W. H. CHEVERS, *Clerk.*

837 *Opinion approving official survey shown by plat filed June* 19, 1863.

United States district court northern district of California.

THE UNITED STATES
vs.
JOSEFA DE HARO *et al.*

In the opinion heretofore delivered in this case it was considered that, by the final decree of confirmation, the quantity of land confirmed to the claimant was the half of one square league, and no more; and that it was to be located in a tract running from north to south one league, and from east to west one-half league, to be measured according to the ordinances, and so as to include the site of the houses of de Haro, and of Galindo, the original grantee.

An order having been entered in conformity with this opinion, a new survey has been made and returned into court for its approval.

With the exception of a very slight curve, introduced so as to conform to the surveyed line of an adjoining rancho, the east and west lines run due north and south, as required by the ordinances. The northerly line also runs east and west; but the southerly
838 line has been surveyed from southwest to northeast, thus giving to the tract the figure of a trapezium.

By the ordinances it would seem that all grants of public land were required to be measured in a square or rectangular form. If, however, any natural obstacle prevented such a measurement, the parallelograms were transferred into trapeziums, that is, two of the sides were measured parallel to each other, and running north and south or east and west; but if a natural obstacle prevented the production of one of them, far enough to include the required quantity within a rectangular figure, the other was produced, and their ends united by an oblique line, thus giving to the tract the form of a trapezium.

On page 77 of the "Ordenanzas de Tierras y Aguas," will be found the diagram of a survey almost identical in figure with the official survey returned into court.

Conceding that the land is to be measured in a tract one league long from north to south, and half a league wide from east to west, or as nearly in that form as is possible, without passing the exterior limits of the grant, I confess myself unable to see how the survey can be attained so as to conform more nearly to these requirements,
839 or to the provisions of the ordenanzas.

I am aware that there are some circumstances in this case which make it one of peculiar hardship.

It is quite possible that many persons have in good faith believed that the half league solicited and desired by the claimants was the tract surveyed by Ransom, at the instigation of de Zaldo, as explained in the former opinions of this court. Under this idea they have settled upon and erected valuable improvements on the lands not included in that survey, of which they will be dispossessed if the survey now before the court shall be finally approved. But, for the reasons heretofore given, I have not felt at liberty to disregard the explicit language of the final decree of the board and of this court, in which both the U. S. and the claimants have acquiesced, and which not only omits to adopt the Ransom survey, but directs a different location of the tract to be made. Under that decree, taken in connection with the ordenanzas, I am unable to perceive how any alteration, except one purely arbitrary, in the survey can be made. But even if such alteration were attempted, with a view of excluding settlers now included,
840 others not now embraced within the survey would be included, who would urge their objections and ask for a further modification of the lines.

I do not consider that I have the power, or the right, thus arbitrarily to cause ranchos to be surveyed so as to subserve private interests. An attempt to deflect and modify lines so as to exclude particular parcels of lands, would not only give rise to suspicions of favoritism and partiality, but might do injustice to other parties whose small holdings, perhaps of inferior comparative value, but of great importance to their possessors, might thus be included. The only practicable method in any case is to adopt a general rule, and I know of none that I can follow in a case like the present, but to make the location as described in the decree of confirmation; and when the decree fails to give specific directions, to measure the land as required by the ordenanzas. I am aware that in this case large interests are involved, and that this, or any other decision I might make, must necessarily create disappointment and discontent.

It affords me much satisfaction to feel that my decision is
841 subject to a review by a higher tribunal where any errors into which I have fallen will be corrected.

The official survey is approved.

Endorsed: Filed July 25th, 1863.

W. H. CHEVERS, *Clerk.*

Final decree.

At a stated term of the district court of the United States for the northern district of California, held at the court-room in the city of San Francisco, on Monday, the twenty-seventh day of July, A. D. 1863.

Present: Honorable Ogden Hoffman, district judge.

THE UNITED STATES
vs.
JOSEFA DE HARO *et al.* } No. 380.

This cause came on to be heard on exceptions filed to the official survey of the land confirmed, made in pursuance of the order of the court, entered June 3, 1863; and counsel for the respective parties having been heard, and due deliberation had in the premises,
842 it is now ordered, adjudged, and decreed, that the said exceptions be, and the same hereby are, overruled.

And it is further ordered, adjudged, and decreed, that the survey and location of the land confirmed in this cause, the field-notes of which survey were approved by E. F. Beale, surveyor general of the United States for California, June 15, 1863, is a good and valid survey of the land confirmed to the said Josefa de Haro *et al.*, and that the said survey and location be, and the same hereby is, approved.

And it is further ordered that the certified copy, plat of said survey, and location (containing $2,223\frac{2}{100}$ acres) filed June 19, 1863, and marked "approved July 27th, 1863, Ogden Hoffman, dist. judge," be attached to and made part of this decree, for a more full and particular description of the two thousand two hundred and twenty-three $\frac{2}{100}$ acres of land now finally confirmed to the said Josefa de Haro and others.

OGDEN HOFFMAN, *Dist. Judge.*

Endorsed: Filed July 27, 1863.

W. H. CHEVERS, *Clerk.*

(Here follows map, p. 842.)

843 *Order granting appeal in behalf of U. S.*

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Monday, the 12th day of October, in the year of our Lord thousand eight hundred and sixty-three.

Present: The honorable Ogden Hoffman, district judge.

THE UNITED STATES
vs.
JOSEFA DE HARO *et als.* } No. 380.

This cause having come on to be heard on objections filed to the survey and location by the surveyor general of the United States for California, of the land heretofore confirmed to the claimants, pursuant to the provisions of the act of Congress approved June 14, 1860; and the said survey and location having been approved by the court by its final decree entered July 27th, A. D. 1863, now, on application of Wm. H. Sharp, esq., United States attorney, it is ordered, that an appeal in behalf of the United States from said

844 final decree be, and the same is hereby, granted; and that a certified transcript of the pleadings, evidence, depositions, and proceedings in said cause be sent to the Supreme Court of the United States without delay.

Endorsed: Filed Oct'r 12th, 1863.

W. H. CHEVERS, *Clerk.*

I, William H. Sharp, district attorney of the United States for the northern district of California, by virtue of the power vested in me by law, to wit, under the act of the Congress of the United States entitled "An act relative to appeals to the Supreme Court of the United States," approved August 6, 1861, do hereby certify that the annexed and foregoing eight hundred and forty-four (844) pages, together with the maps and diseños, also annexed hereto, exhibit a full, true, and correct transcript of the record and proceedings in
845 the case of the United States *vs.* Josefa de Haro *et al.*, and numbered 380 on the docket of land cases in the district court of the United States for the northern district of California, and that the original papers and maps from which the said transcript has been made were duly delivered to me by the clerk of said district court, at my request, for the purpose of having them transcribed, and the same are of record and on file in the clerk's office of said district court.

In testimony whereof, I have hereto set my hand and private seal at San Francisco, in the district aforesaid, this twelfth
[WM. H. S.] day of October, A. D. one thousand eight hundred and sixty-three, and of our independence the 88th.

WM. H. SHARP,
U. S. Att'y, Northern Dist. of California.

Filed December 1, 1863.

IN THE SUPREME COURT.

THE UNITED STATES, vs. JOSEFA DE HARO, et al } No. 152. December, 1864.

(Appeal from the Northern District of California.)

STATEMENT OF THE CASE.

The Record discloses facts of which the following is an outline.

On the 15th of August, 1835, one Jose Antonio Galindo petitioned the Mexican authorities for the grant of a certain tract of land "in the vicinity of San Francisco and of Dolores, which parcel of land is about a league in latitude, and about a half a league in longitude, of which I annex the corresponding sketch, according to the law of August 18th, 1824," P. 32.

The proper formalities having been complied with, the grant was issued to said Galindo on the 27th September, 1835. P. 33, 34, 35, 36, and 43.

On the 12th of May, 1837, Galindo conveyed the entire tract, granted as above, to Don Francisco de Haro, the written relinquishment of interest for herself and her other children, having been previously obtained from Galindo's mother. P. 40 and 41.

De Haro died in the year 1849, leaving Josefa, Natividad, Prudencio, Condelario, Alonzo, Carlotte, and Rosalia De Haro, as his children and lawful heirs. P. 3 and 64.

On the 26th August, 1851, Ramon de Zaldo was duly appointed and qualified as general administrator of the estate of said Francisco de Haro, deceased, by the Probate Court of the City and County of San Francisco. P, 79.

Prior to said order of the Probate Court, De Zaldo had been informally appointed in writing, as administrator, by De Haro's children. P. 162.

On the 19th August, 1852, De Zaldo was appointed and qualified guardian of two of De Haro's children, viz: Condalario and Carlota. P. 81.

On the 7th April, 1853, Charles Brown was appointed and qualified guardian of Alonzo De Haro. P. 80.

Josefa De Haro was the widow of one Guerrero, and then married James Denniston. Navitad married Paul Tissot, and Rosalia married Charles Brown, p. 64 and 65.

On the 16th March, 1852, the heirs of De Haro, by their attorney's, Clark, Taylor and Beckle, filed with the United States Commission for settling Private Land Claims in California, their petition for the confirmation of their claim and title to the aforementioned grant, p. 3, 4 and 5.

On the 24th July, 1855, the commissioners confirmed the claim of De Haro's heirs to the Rancho "Laguna De La Merced," but not in accordance with the prayer of the petition of said heirs, p. 50, 51 and 52.

More particular reference will hereafter be made to this decree, when treating of the question of survey. An appeal from said decree was duly prosecuted by both the Grant Claimants and by the United States, p. 53 and 54.

On the 13th January, 1858, the decree of the United States District Court for the Northern District of California, was filed and affirming the decision of the Board of Land Commissioners, p. 54.

March 18, 1858, stipulations, signed by attornies of all parties in interest, were filed, waiving the right of further appeal, and an order of the District Court, vacating appeal was entered March 19, 1858, p. 55.

The Decrees of Confirmation (p. 51 and 149,) have then finally determined the validity of the grant, and also that it was a grant of a "lesser quantity to be located within the limits of the larger tract." These matters are res adjudicata. There is no dispute as to the exterior limits of the "larger tract." The only question at issue is as to the location within said exterior limits of the half league confirmed to the claimants.

June 10, 1853, Clark, Taylor and Beckle, as attornies for the Grant claimants, made written application to the United States Surveyor General of California, for an initiatory survey of the Rancho Laguna De La Merced. Their claim was then and long subsequent thereto, pending before the Board of Commissioners. See Exhibit, Clarke No. 1, p. 184.

On the same day the Surveyor General appointed a deputy to execute the said preliminary survey, p. 208 and 209.

July 8th, 1853, said deputy commenced his work and soon finished the survey of the exterior limits, p. 73.

Immediately thereafter, viz: in the same month, the Grant claimants, or their legal representative, designated upon the map of said survey the location of the half league

as determined upon by them, p 49, 65–70, 72–77, 104–105, 200–201, 116.

July 30, 1853, said deputy completed the survey of the half league, as designated by the Grant claimants, p. 49.

September, 22, 1853, the United States Surveyor General approved said survey, and July 12, 1854, it was filed by the Grant claimants with the Board of Commissioners. See map marked P. 66, No. 2, p. 27.

Thereafter the Surveyor General, in accordance with the usual practice of his office, caused the lands lying outside of the half league selected by the claimants as aforesaid, to be sectionized; and June 29th, 1854, the plats thereof were duly approved and filed in the district land office at San Francisco, and the General Land Office at Washington, printed record, pages 102, 189, 204, 299; and map marked p. 99.

Thereafter, twenty-two different parties proved upon said land thus sectionized, their pre-emption claims, under the United States; paid for their respective tracts, and received their certificates of purchase. Upon their respective purchases they have made improvements at an aggregate cost of more than $75,000. It is to be further remarked, that their original settlements were made under the advice of the grant claimants, and on the positive assurance given in the premises by said claimants, that the lands thus settled upon were beyond the lines of the grant. See map marked p. 128, also printed record, pages 62, 99, 119, 122–149.

March 25, 1858, the U. S. Surveyor General for California appointed R. C. Matthewson a special deputy, and instructed him to make a survey of the Rancho Laguna de la Merced. No reference was made in these instructions to the survey made by Ransom, as applied for by the grant claimants, under instructions from Surveyor General King, approved by Surveyor General Hays, and filed with the Board of Land Commissioners. After an undisputed existence of nearly six years, this survey is suddenly entirely ignored.—Printed record, p. 257.

This survey was completed April 22, 1858, and was rejected by the Surveyor General on the ground that it was not in a sufficiently compact form. The only proof of these alleged facts rests upon the deposition of R. C. Matthewson. There are no official certificates as to their correctness. See

Ex. Matthewson, No. 2, map marked p. 662, and printed record p. 255, 1,257.

Thereafter Mathewson claims to have executed another survey, and alleges that the same was approved by Surveyor General Mandeville. See map marked p. 138, p. 56.

This survey, at the instance of the United States, was filed in the District Court, November 8, 1859, in obedience to an order of that Court made October 14, 1859, directing the Surveyor General to return to the Court for examination his survey of the land confirmed in this cause. Printed record, p. 56.

Dec. 9, 1859 and Oct. 3, 1860, the United States filed certain objections to that survey. (Printed Record, p. 57, 60, and 61.)

Oct. 3, 1860, David Mahoney filed his petition for intervention, 1, p. 59.

April 14, 1862, Mahoney filed certain objections to that survey, 1, p. 100.

June 13, 1862, the opinion of the District Court was filed and June 18, 1862, the order of the court was filed rejecting survey and ordering new survey to be made "in accordance with the election of the claimants made in 1853, as evidenced by the plot and field notes of a survey of said lands made by Leander Ranson, Tnited States Deputy Surveyor, in 1853, on file in this cause; and the said survey shall include the quantity of a half square league and no more, and shall conform as nearly as may be to the said survey of the said half league made by said Ransom as aforesaid." Printed Record pages 149, 150, 151 and 152.

July 16, 1862, Josefa de Haro and others, claimants, and David Mahoney, intervenor, filed in the District Court their petition for rehearing of the cause "as to so much of the opinion of the court relating to the election by the claimants, of the half league confirmed." Printed Record, p. 153.

Tlris petition was accompanied by certain affidavits, and on the day of filing is endorsed: "Rehearing granted O. H." Pages 160, 161, 162, 163, 164, 165, 166, and 167.

It was based on the ground of fraud; it charges that no election was really made by the grant claimants; but that De Zaldo, the Administrator, and Ransom, the Deputy Surveyor, colluded to locate the ranch upon the least valuable lands, and for the purpose, in connection with one Argenti,

a banker, of locating California State school warrants upon the remaining, and more costly of the lands within the exterior limits. p. 153.

No notice of the pendency of this petition was served upon the United States, and hence no opportunity was then afforded of contesting the same.

July 16, 1862, the attornies for the claimants notified the United States that a rehearing had been granted.

May 30, 1863, the opinion of the District Court was filed. In this opinion Judge Hoffman reaffirmed the fact, that an election had been properly made in 1852 by the grant claimants, and specifically decided that said claimants had failed to prove the alleged fraudulent collusion; but yet the court ordered a new survey on the ground that Ransom's survey did not include "the houses and cultivations of Galindo and De Haro. Printed Record, p. 313 to 318.

June 3, 1853, an order was filed vacating, the order of June 18, 1862, and ordering a new survey as follows:

"A tract of land shall be located and surveyed within the exterior boundaries named in the grant and shown on the diseno, which tract shall be measured by north, south, east and west lines, as directed by the ordenanzas, so as to include a tract of half a square league, being one league from north to south, and half a league from east to west; provided that the same can be done without passing the exterior boundaries named in the grant and shown on the diseno and without infringing upon the surveyed lines of any adjoining rancho, in which case the said location and survey shall approximate as nearly as possible, and in the manner directed by said ordenanzas; and provided further that such location and survey shall include the actual occupation of Galindo, the original grantee, and of De Haro, the ancestor of the present claimants, as shown on the plots filed Nov. 22, 1859." Printed Record, p. 318–9.

June 15, 1863, the Surveyor General approved a survey, purporting to have been made in conformity to the above order. (See Map marked P. 842, p. 323.)

A copy thereof was filed in Court June 19, 1863, and objections were filed thereto, both by the United States and by the claimants. The exceptions filed by the United States are as follows, viz:

"1st. The said survey does not conform to the decree of this Court, entered on the 3d of June, 1863, under which

decree said survey was made, in this, to wit: that the lines thereof do not run due east and west, north and south, as they could and should do; and the eastern line of said survey is less than one league in length, and the western line is much more than one league in length, whilst the northern and southern lines are more than a half league in length; and in these respects the said survey departs both from said decree and the ordinances therein mentioned.

2d. The said survey is erroneous for the reasons set forth in the exceptions filed on behalf of the United States to the original official survey herein, which. exceptions are now insisted upon as applicable to the present survey.

3d. The land included in said official survey is not, nor any part of it, situate in the county of San Fransisco, whereas the land confirmed is all described in the decree of confirmation as situate in said county." Printed Record, p. 319-320.

The original exceptions filed by the United States and to which reference is made in the second objection above quoted, are to be found in printed record, p. 57.

The claimants and D. Mahoney, intervenor, exeepted to the survey on the following grounds, viz;

"1st. Because said survey is not in accordance with the original decree of confirmation in this cause in any of the courses and distances thereof, or the quantity of land that should be included therein.

2d. Because said survey is not in accordance with the order or decree of this Court, bearing date June 3d, 1863, in any of the courses or distances thereof, or the quantity of land that should be included therein.

3d. Because said survey does not conform to the calls of the grant and disèno in this cause in regard to the courses and distances thereof, or the lands to be included therein, or the shape thereof, or the quantity of land that should be included therein.

4th. Because said survey does not include all of the land which appears to have been granted to the claimants in this cause.

5th. Because said court had no jurisdiction to order said survey.

6th. Because said survey was made and filed in this cause without authority of law." See printed record, pages 320 321.

July 25, 1863.—The opinion of Judge Hoffman was filed, approving the survey shown by plat filed June 19, 1863; and on the 27th July 1864, an order was filed in conformity to said opinion. Printed record, pages 321, 322, 323.

From that decree the United States now appeal.

ARGUMENT FOR APPELLANTS.

In regard to the survey of June 19, 1863, and to the decree of the District Court, adopting it as the true survey and location of the Rancho Laguna de la Merced, it is contended that said survey is erroneous:

1st. Because it does not conform to the decree of the District Court, entered June 3, 1863, in any of the courses or distances thereof, or the quantity of land which should be included therin.

2d. Because it is not in accordance with the original decree of confirmation in this cause in any of the courses and distances thereof, the quantity of land which should be included therein, or the county in which the same should be located.

3d Because it does not conform to the calls of the grant and disèno in this cause in regard to the courses and distances thereof, or the lands to be included therein, or the shape thereof, or the quantity of land which should be included therein.

4th. Because it does not conform to the election made by the grant claimants in 1853, which election was within the calls of the grant and diseno, and in conformity to the decree of confirmation.

1st. Because it does not conform to the decree of the District Court, entered June 3, 1863, in any of the courses or distances thereof, or the quantity of land which should be included therein.

The order of June 3, 1863, directs that "a tract of land shall be located and surveyed within the exterior boundaries named in the grant, and shown on the diseno, which tract shall be measured by north, south, east and west lines, as directed by the disenos, so as to include a tract of half a square league, being one league from north to south and half a league from east to west; provided that the same can be done without passing the exterior boundaries named in the grant and shown on the diseno and without intringing upon the surveyed lines of any adjoining rancho," &c.

By reference to the map marked p 842, [323] it will be seen that the northerly line falls short of half a league, whilst the southerly line largely exceeds half a league. Again, the west line measures much more than a league, whilst the east line falls short of the required measurement. Nor is the southerly line measured from east to west, as required by the ordinanzas and decree; but, on the contrary, it is surveyed from southwest to northeast, thus giving to the grant the shape of a trapezium instead of the required parallelogram. The only exception made in the ordinances to the requirement of a square or rectangular survey, was the intervention of natural obstacles. Judge Hoffman in his opinion states this exception, and then tacitly assumes, that such natural obstacles gave form to the survey before him. But this assumption is clearly in error. No testimony in the case creates even the suspicion of such obstacles; and the sectionizing of the adjoining tracts, as public lands, shows conclusively that no such obstacles existed. See maps marked pages 262, 244, 320 and 842—side paging.

Again, the decree directs the survey to include a tract of half a square league, which would be 2,170 13-100 acres. The survey actually embraces 2,223 2-100 acres, being thus in excess of the confirmed grant. Although this excess seems small in comparison with the aggregate amount of the grant, yet it becomes a matter of importance, when we reflect, that the present survey locates the grant upon the improved farms of innocent purchasers under the Government, and that every foot in excess of the strict rights of the claimants, is to that extent an unlawful infringement upon the vested rights of third parties.

Again, the southern line of this survey infringes upon the lines of the Buri Buri ranch. The northern line of the Buri Buri runs through the lakes Alta and San Bruno, whilst the southern line of the San Merced survey of June 19, 1863, is south of both of said lakes. This fact is established by all the other maps in the cause, which show the Buri Buri line, and by the testimony of the witnesses for the claimants, both before the board and on the question of survey.

We shall hereafter inquire whether the tract of land thus conveyed is within the exterior boundaries named in the grant and shown on the survey.

2d. Because the survey is not in accordance with the original decree of confirmation in this cause, in any of the courses and distances thereof, the quantity of land which should be included therein, nor the county in which the same should be located.

The first two branches of this proposition have already been established under the consideration of the first proposition; nothing need be added thereon.

The decree of confirmation states, that "the land of which confirmation is hereby made, is known and called "Laguna de la Merced," and is situated in the county of San Francisco." Printed record, p. 54.

The survey of June 19, 1863, entirely excludes the Laguna de la Merced, and locates the grant far to the south thereof. Not only so, but, as a further objection, no portion of the survey is within the county of San Francisco, for the northern line of the survey is considerably to the south of the county line. See maps marked Exhibit Ransom, A. No. 1, page 262, and map marked page 279—side paging.

If, as Judge Hoffman remarks, the parties in interest are bound by the location, as described in the decree of confirmation, this objection must be fatal to the survey of June 19, 1863.

3d. Because it does not conform to the calls of the grant and diseno in this cause in regard to the courses and distances thereof, or the lands to be included therein, or the shape thereof, or the quantity of land that should be included therein.

The previous reasoning in reference to the courses and distances, the shape and area of the survey of June 19, 1863, is applicable to the present proposition. We need only examine whether the lands embraced in this survey correspond to the calls of the grant, and the diseno. That they do not is apparent from the following reasons: 1st. As shown by the diseno marked p. 70, and the report of the ayuntamiento, (printed record p. 33,) the land granted was wes of the Mission Dolores, and about one league therefrom; whereas the land surveyed is nearly due south of the Mission, and at a distance of much more than a league.

2d. The survey includes lakes Alta and San Bruno, neither of which are shown on the diseno, but on the contrary are south of the most southerly point shown on the diseno, marked p. 70.

3d. The hill of San Bruno is a prominent object on the southeast corner of the tract as shown on the diseno, and the Portozuelo, through which passes the road to San Francisco, is considerably to the south of the center of the eastern line of said diseno. Whereas the San Bruno mountain lies north of the center of the survey of June 19, 1863, and the Portozuelo is exactly at the north east corner thereof.

4th. The three most prominent objects laid dowu on the diseno are the bay of San Francisco on the north, the Pacific Ocean on the west, and the Laguna de la Merced in the middle. Each and all of these landmarks are excluded from the survey of June 19, 1863.

5th. The testimony of all the witnesses before the Board and also before the District Court establish the location of the houses of De Haro and Andrews, viz: on opposite sides of the southern arm of Lake Merced. Whereas the survey of June 19, 1863, whilst excluding Lake Merced, and being in fact south of the most southerly point thereof, yet professes to include the aforesaid houses of De Haro and Andrews.

6th. The report of the ayuntamiento and the evidence presented by Galindo to the Alcalde (printed Record, p. 33, 35 and 36,) show conclusively that the land granted "is sandy and scarcely produces pastures for keeping horses and cattle, and it is wholly sterile and unfit for the purpose of sowing."

Whereas in the survey of June 19, 1863, the soil is loamy, and well adapted for agricultural and gardening purposes.

See deposition of R. S. Thornton, printed record, p. 136.

7th. The petition of Francisco De Haro himself (the ancestor of the present claimants, and the source from which they and their assigns deraign title) made the 5th of February, 1839, in behalf of his wife, conclusively establishes the exact location of the grant in the diseno. In this petition to Governor Alvarado, De Haro sets forth that his purchase from Galindo, known as the "Laguna De La Merced or Bolsa" was too small for their stock, and therefore asks for a grant of an additional half league, viz:— "the land between the hill of "San Bruno," "Portozuelo" of this name, bounded by the hill that lies between the Laguna Honda and Laguna Puerca, and turning, for a northern boundary, a gulch that empties into Laguna

Puerca, and the south by the extinguished corral of Bruno, which belongs to my father, D'n Jose Sanchez, *together with the Laguna Alta, and the Hills of San Bruno,*" printed record, p. 39.

To more readily trace these boundaries reference is had to the diseno, which accompanied said petition, and which is marked p. 94. It will be seen that the land asked for, (though it was not granted,) was situated between the San Merced ranch and Lake Alta on the south, and between said ranch and the hill, and Portozuelo of San Bruno on the east and south-east. It covers the identical land which is included in the survey of June 19, 1863. In fact the Board of Commissioners discussed and rejected the application of the grant claimants to these identical tracts. The concluding paragraphs of their decision upon this point read as follows: "This shows clearly that De Haro did not consider the tract purchased by him of Galindo as extending to the Portozuelo or hill of San Bruno, else why should he solicit for his wife a new grant of land to which he already had a title. A confirmation according to the prayer of the petition, would not only embrace a much larger quantity, but, according to the testimony in the case, it would also include lands *not contained within the limits of the diseno or map, in which the grant was presented.*" See printed record, p. 51.

The decision of the Board having been finally affirmed by the Appellate Court, we submit that the claimants are precluded from the location exhibited in the Survey of June 19, 1863.

It will also be observed that in this petition, De Haro describes the land purchased from Galindo, as the "Laguna de la Merced or Bolsa." The testimony of Tiburcio Vazquez, on page 18 of printed record, and that of Alfred A. Green, 265, prove that the "Bolsas" or pocket, extended from Lake Puerca to near the southern arm of the Lake Merced.

8. On the 2d October, 1842, De Haro petitioned the Sēnior Justice of the Peace to protect his ranche from certain named trespassers, and in said petition locates his rancho as being "on the Bolsas." Printed record, p. 102.

Whereas the most northerly point of the survey of June 19, 1863 is far to the south of the most southerly point of the "Bolsas."

4th. Because it does not conform to the election made by the grant claimants in 1853, which election was within the calls of the grant and diseño, and in conformity to the decree of confirmation.

To adopt the language of Judge Hoffman, (printed record, p. 313,) "at the organization of the Board, the practice obtained to direct a preliminary survey of land claims presented for confirmation, in order to enable the Board to identify and describe them in its decrees, This practice was subsequently abandoned. But it was by many supposed expedient, if not necessary, to prove by an actual survey the limits of the grant, and that the land was capable "of identification and segregation."

This statement of the Court is sustained by the testimony of J. Clarke, the principal attorney of the grant claimants before the Board. See printed record, p. 117 and 181. See also instructions of General Land Office, 210–11. The Court goes on to say, "the attorneys for the claimants in this case accordingly requested the Surveyor General to make a survey of the Rancho of Laguna de la Merced." See Exhibit, Clarke, No. 1, p. 184.

"The survey was made, not only of the exterior boundaries of the rancho, but also of a tract one league long be "by half a league wide, which the deputy surveyor certified "had been selected by the parties in interest, and surveyed "in accordance with their wishes. The land on the outside "of this tract and within the exterior boundaries, was soon "after sectionized as public land: and it has since been extensively settled on and improved by persons claiming "under the preëmption laws. It appears, however, that the "sectionizing of these lands was not made solely on the interests of tho United States, or in the regular and usual "course of the business of the Surveyor General's office. It "seems to have been done at the suggestion of Mr. Felix "Argenti, &c., &c."

There is a glaring inaccuracy in this statement of Judge Hoffman, which must not be overlooked. Not only is there a total absence of any testimony in this cause showing or tending to show, that this sectionizing was done at Argenti' suggestion, or other than "in the regular and usual course of the business of the Surveyor General's office;" but the testimony of Surveyor General Hays (Printed Record, p. 299) directly and emphatically contradicts such a supposition.

We know of no better form in which to present a condensed statement of the acts of the claimants in pursuance of their election than by continuing to quote from Judge Hoffman's opinion (p. 315) with references to the sustaining proof. "It has already been observed that the selection of the half league appears to have been made not only at the express desire of the Administrator representing the estate but with the knowledge and consent of the heirs." (See printed Record p. deposition of De Zaldo, p. 64–70, same 194–201; also deposition of Ransom 72–77, and 193–4.) "It also appears that the survey of the half league tract embraced the most valuable lands of the rancho; (16, 285–305) that Denniston, the husband of one of the heirs, was present at "the survey and made no objection; (p. 73) that he saw the plot and consulted with De Zaldo and the rest of the family in regard to it; (p. 65 and 199) that he and Brown took up claims outside of the survey and advised others to do so; (p. 197, 89, 90, 119, 62, 122, 131, 135, 137) that Brown, as guardian of a minor heir, leased a part of the land included in the half league tract, describing it as a part of the rancho; (p. 88, 139–40) that Brown and his wife mortgaged a part of the same tract, describing it in the same manner; (p. 94 and 111) that Denniston and his wife sought to enjoin proceedings on this mortgage alleging the land to be part of the Haro rancho; (p. 91) that Denniston and wife afterwards conveyed the same land to Andrews; (p. 108 and 113) that the other adult heirs saw the plot of the survey at the time it was made—knew what it was and made no objection; (p. 64–70, 194–201, 238–254) that from the date of the survey up to the time when Mahoney purchased the entire interest, no complaint was made or any steps taken to obtain a new location of the land; and finally that the United States, through its Surveyor General, "have treated the selection as valid, and sectionized the land outside, which has in great part passed into the hands of bona fide purchasers, who have erected permanent and costly improvements. (p. 99 and 117–147). If then the only question were, whether the claimants have now a right arbitrarily to select a half league anywhere within the exterior boundaries, its solution would not be difficult."

But after having shown with so much clearness, not only that an election had been made by the claimants, (as laid down in the Ransom survey); but also how, in equity and

good faith, both they and the United States were bound by that election—it is somewhat remarkable that Judge Hoffman should have sought for a technical ground on which to ignore such election. He decides that such election does not conform to the decree of confirmation by the board of Commissioners, and that the survey of June 19, 1863, does so conform. Two reasons are stated in support of this opinion: 1st, that the board not only omitted to adopt the Ransom survey, but directs a different location to be made; 2d, that the Ransom survey does not include the site of the houses of Haro and Galindo.

To the first of these objections we would reply, that we fail to perceive wherein the decree of the Board, by expression or by implication, supports this allegation of Judge Hoffman. True, no direct reference is made to Ransom's survey. But it was only before them in an informal way, and they were not called upon to notice it in terms. It was on their files simply as the informal designation by the claimants of the lands applied for, and we should only expect a direct reference thereto in the contingency, that the board *disapproved* of the proposed selection. The omission to speak of Ransom's survey is therefore in our view an evidence of approval, rather than the contrary. But fortunately we are not left to conjecture as to the intention of the board. So far from their directing a different location we claim that they very distinctly precluded the claimants from making any other location than as shown in the Ransom survey. For in their opinion (printed record, p. 51,) they discuss at length the petition of the wife of Francisco De Haro, and positively refuse to confirm the claim of De Haro's heirs to the land asked for in that petition. Now by reference to said petition (printed record, p. 39,) and to the accompanying diseno (map marked p. 94,) it will be seen that the land asked for and which the board refuses to confirm, is substantially identical with that portion of the land within the exterior limits, which is not included in Ransom's survey of the half league. When you take away the land which the board refused to confirm, there is nothing left but the half league surveyed by Ransom.

To the 2d reason viz: that the Ransom survey does not include the site of the houses of De Haro, and of Galindo, we reply that such is not the language of the board. Their decree (p. 52,) reads "regard being also had to the actual

occupation of the original grantee and the ancestor of the present claimant." Now the evidence of all the witnesses shows that the "occupation" of this ranch consisted in its use for pasturing purposes—the usual occupation of lands in the earlier days of California—and that the cattle of both Galindo and De Haro grazed around Lake Merced. The residence of parties was of a very transient character, and De Haro lived most of the time at the Mission Dolores.

Indeed, it is a matter of dispute, as to whether this house of Galindo was not located on the Buri Buri ranch. At any rate, the house of De Haro, in which he lived almost the entire period of his residence on the ranch, was on the west side of lake Merced, and, as before shown, is entirely excluded from the survey of June 19, 1863, though erroneously marked upon the plat. Is it proper to exclude all the actual occupation of the parties—all the prominent, well-known and permanent natural objects on the deseno—even the actual residence of De Haro himself—and, in defiance of equity and good faith, to locate this ranch by such an indefinite object as the long since obliterated ruins of Golindo's house?

Nor can it be argued, that Ransom's survey does injustice to the intervenor, Mahoney. A glance at his title and acts will disprove such an impression. By order of the Court of Probate, the estate was sold at administrator's sale, and was bought in by Josefa de Haro Denniston, (printed record, p. 259.) Mrs. Denniston and husband convey to David Mahoney, the present intervenor, (p. 262,) "all that certain tract, piece or parcel of land known as Laguna de la Merced, situate, lying and being in the county of San Francisco and the county of San Mateo." Now, the Ransom survey exactly answers this description, whilst no part of the survey of June 19, 1863, is in the county of San Francisco. And that such was the understanding of David Mahoney is shown by the deposition of B. G. Lathrop. Page 129.

Wherefore the United States ask that the decree of the court below, affirming the second or Matthewson survey of June 19, 1863, shall be set aside, and that a decree shall be entered directing that a new survey shall be made to conform to the Ransom survey of 1853.

JOS. H. BRADLEY,
For Appellants.